

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, March 15<sup>th</sup>, 2017*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman  
Charles P. Heady, Jr.  
James Seirmarco  
John Mattis  
Adrian C. Hunte  
Raymond Reber

Also Present

Ken Hoch, Clerk of the Zoning Board  
John Klarl, Deputy Town attorney

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**ADOPTION OF MEETING MINUTES FOR FEB. 15, 2017**

Minutes for February were unanimously adopted.

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Due to technical difficulty with the meeting video, there was no audio for Cases 2016-24, 2016-29, 2017-01 and a portion of 2017-05. For these Cases, a summary is provided.

**CLOSED AND RESERVED:**

- A. **CASE NO. 2016-24** **Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center** for an Area Variance for the requirement that a hospital in a residential district must have frontage on State Road on property located at **2016 Quaker Ridge Road**.

**NOTE: Only the Public Hearing on the issue of “Area Variance” versus “Use Variance” has been closed and reserved. After the adoption of a Decision and Order on the Area/Use issue, the Public Hearing on the Variance request will continue at future meetings on this application.**

Mr. John Klarl read the Decision and Order on the issue of “Area Variance” versus “Use Variance”:

This is an application by Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center (“HEWC”) for an Area Variance from the requirement that a hospital in a Town residential zoning district must have frontage on a State Road, in this case, for the Applicants’ property located at 2016 Quaker Ridge Road, Croton-on-Hudson, NY.

In their application to this Board in October 2016, the Applicants set forth their Project Description: “Specialty hospital serving patients with substance use disorder. Re-use of existing buildings previously used for similar hospital and other institutional use, requires variance from 2004 Amendment to Special Permit provisions requiring State road frontage.”

An initial determination, one which will shape the course of this application and the factors, scope, and legal standards pertaining to it, concerns the issue of whether it is more appropriate to consider the application under the rubric of a request for an “Area Variance” (for which the Applicants have applied), or whether the application instead, more properly, should be categorized and treated as a request for a “Use Variance.” Given the import of the resolution of that issue, this Board decided to request additional submissions and presentations from the Applicants and any interested parties opposed to the application, limited to discussion of this specific issue. Furthermore, in addition to Public Hearings previously conducted on October 19, 2016 and November 16, 2016, the Board held Public Hearings limited to that issue on December 14, 2016 and January 18, 2017. After the Public Hearing held on January 18, 2017, the Board closed the Public Hearing only on the limited issue of “Area Variance” versus “Use Variance”, and reserved decision on that issue. After adoption of this Decision and Order on the limited Area Variance/Use Variance issue, the Public Hearing on the Applicants’ variance request will continue at future Public Hearings on this application.

The Board has received, reviewed, and considered substantial amounts of materials from each side. The Board also had the benefit of cogent, thorough, and skillful presentations by representatives of the Applicants and persons opposed to the application, which further substantially aided the ZBA in its consideration of the somewhat technical legal issue presented. All members of the public who wished to be heard on the “limited issue” were heard or given an opportunity to be heard.

Upon consideration of the evidence presented to the Board on the Area Variance versus Use Variance issue, and the Board’s understanding of the statutory and case law pertinent to consideration of the issue, the Board concludes as follows:

1. Each of the relevant New York State statutes – including Town Law Section 267 (defining “area” and “use” variances), Town Law Section 274-b(3) (providing for area variances from Special Permit requirements), and Town Law Section 280-a (specifically providing for area variances from road frontage requirements for building permits, including State road frontage) – mandates that this

application be treated as an application for an area variance. A frontage requirement, to use language from Section 267, is a “dimensional or physical requirement,” determined by reference to rights of way and lot lines.

2. The decision of the New York Court of Appeals – the highest Court in this State – in Matter of Real Holding Corp. v. Lehigh, 2 N.Y.3d 297, 778 N.Y.S.2d 438 (2004) – likewise mandates that this application be treated as an application for an area variance.
3. Additional authorities buttress this conclusion, including, but not limited to the Second Department’s decision in Sunrise Plaza Associates, L.P. v. Town Board of the Town of Babylon, 250 A.D.2d 690, 673 N.Y.S.2d 165 (2d Dept. 1998); N.Y. Jurisprudence, 2d ed., Vol. 12A, *Buildings, Zoning, and Land Controls* Section 364 (“an Area Variance involves matters such as. . . frontage requirements”); and N.Y. Zoning Law and Practice, 4<sup>th</sup> ed., Sec. 29:5 (“Area variances involve matters such as. . . frontage requirements.”)

Finally, and importantly, this Board emphasizes that this Decision and Order does not arrive at a final conclusion as to whether an Area Variance should or should not be granted by this Board, and nothing in this Decision and Order should be interpreted as in any way addressing that issue or expressing any views whatsoever on the ultimate underlying merits (or lack thereof) of the Applicants’ application for an area variance. The Board will address and consider such matters only after additional public hearings are conducted on this application.

Motion was made and seconded to adopt the Decision and Order. The vote to adopt was unanimous.

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**ADJOURNED PUBLIC HEARINGS:**

- A. **CASE NO. 2016-29**                      **Alex and Diana Daoud** for an Area Variance for the front yard setback for an addition on property located at **11 Buena Vista Ave., Cortlandt Manor, NY.**

Applicant requested an adjournment to the April meeting.

- B. **CASE NO. 2017-01**                      **Luis Otavalo** for Area Variances for side and rear yard setbacks for an existing deck and addition on property located at **58 Sherwood Rd., Cortlandt Manor, NY.**

Applicant requested an adjournment to the April meeting.

C. **CASE NO. 2017-05** **Daniel and Nancy DelMonte** for an Area Variance for the side yard setback for front porch and garage additions on property located at **15 Damian Way, Cortlandt Manor.**

Mr. Daniel Delmonte made initial comments, followed by comments from Mr. James Kenny.

Mr. James Kenny stated they are under the house, garages on 1, 2, 3 out of 6 properties. There's no attached...

Mr. John Mattis stated the way we read it, it was misleading, like there was no garage at all. A garage [inaudible 0:34] is still a garage.

Mr. James Kenny stated attached garage. I think if you look back to what I just said...

Ms. Adrian Hunte asked is there one house on the block that has four garages?

Mr. James Kenny responded I'm not aware of that at all. It was an existing structure, it was an existing structure that this board allowed a garage Dominic Santucci to keep and so I guess there is a house that has setback in the property behind the house. A garage has been there since 1930. You, the board, allowed that structure to stay.

Mr. John Mattis stated that never came to us. It was in the site plan but it didn't require a variance.

Mr. James Kenny stated sorry, sorry about that. Any other questions for me?

Ms. Adrian Hunte stated I don't, anyone else?

Mr. David Douglas stated no.

Ms. Adrian Hunte stated Mr. Delmonte do you have any other comments?

Mr. Daniel Delmonte stated there is another house there that has a separate two-car garage on the property plus an additional two-car attached garage that is...

Ms. Adrian Hunte stated that's what you're referring to the four garage.

Mr. David Douglas asked which one is that? Do you know the address?

Mr. Daniel Delmonte responded it is right next door to mine, number 16.

Mr. John Mattis asked and that's on the left side?

Mr. Daniel Delmonte stated if you're looking at my house it's on the left side.

Mr. John Mattis stated Mr. Kenny's on the right.

Mr. Daniel Delmonte responded correct. I do have a picture of it that I brought with me if you'd like to see it.

Several members stated no that's fine.

Ms. Adrian Hunte stated hearing no further comments on...

Mr. John Mattis stated I'd like to make a couple of comments. Number one, Mr. Kenny, you said you couldn't move your house but we've had cases where the builder asked for variances in some cases we grant them. So, once it's built, once you bought it you could have asked for a variance but in terms of moving the house, no that's something that the builder has to do. I'm just trying to correct the record that says you couldn't move your house.

Mr. James Kenny stated I bought the property first with Dom Santucci. I wanted to move the house to the left and because of an area setback from the road, could not move that house any more left built and so Dom Santucci...

Mr. John Mattis stated he could have asked for a variance but he didn't come to our board and ask for one. To say he couldn't – and he's come to us for variances on various houses as he builds them so that's a little misleading. He could have but he chose not to. That's different than he couldn't. I'm just trying to get the record straight and the other thing that we've looked at is the applicant could have built a separate two-car garage as-of-right and would only need a 6 foot setback, okay, and he chose not to do that and it wouldn't have come in front of the Zoning Board. That was an alternative that he chose not to do.

Mr. James Kenny stated and as alternatives to putting on an extra garage that are not in – that wouldn't interfere with the zoning, the area setback zoning laws.

Mr. John Mattis stated right, if he had a separate two-car garage within the zoning envelope which is 6 feet away from the property line he would not have needed a variance. This is actually further from the property line.

Mr. James Kenny stated it's still a 33% infringement of the area setback.

Mr. John Mattis stated we understand that.

Mr. James Kenny stated thanks, thanks for your time.

Mr. John Mattis stated I'm going to suggest that in the Decision & Order that we have the

Planning Board review the runoff to make sure that it will not change and it will not

Mr. Ken Hoch stated Engineering.

Mr. John Mattis stated I'm sorry the Planning Department, the Engineering Department review this to make sure there would be no problems with the runoff. Our Decision, if we approve it, would be subject to that.

Mr. Daniel Delmonte responded no problem.

Ms. Adrian Hunte stated hearing no further comments, on case #2017-05 for the applicant Daniel and Nancy Delmonte for an Area Variance for side yard setback to a new porch from a required 30 feet down to 27.3 feet and an Area Variance for the side yard setback to a new garage addition from a required 30 feet down to 20 feet, I make a motion that we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Ms. Adrian Hunte stated on case #2017-05 I make a motion that we close – excuse me, that we grant the Area Variance. This is a SEQRA type II, no further compliance required and that this granted Variance, if so granted, would be subject to the review of the Engineering Department to rule on the runoff issue.

Mr. David Douglas asked do you want to read into the record what the Variances are?

Ms. Adrian Hunte responded I did...

Mr. David Douglas asked you did?

Ms. Adrian Hunte stated yes I did.

Mr. David Douglas stated okay, if she did, she did. I didn't hear it.

Mr. John Mattis stated I second that.

With all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Mr. Daniel Delmonte stated thank you.

- D. **CASE NO. 2017-06** **Michael Druchunas and Siew Yin Wee** for an Area Variance for accessory structures, and an Area Variance for the height of an accessory structure on property located at **293 Lafayette Ave., Cortlandt Manor.**

Mr. David Douglas asked are they here? We'll put it on for the end and see if they come at the end. If not, we'll send what we usually do with the letter sending them a letter.

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Mr. David Douglas stated can we go back to our case that nobody answered before. I don't think he's here but case #2017-06 Michael Druchunas and Siew Yin Wee. Are they here? Mr. Hoch could you send them a letter? I guess we should move to adjourn it to next month and Mr. Hoch to send a letter telling them if they do not appear next month it will be deemed to be withdrawn.

Mr. John Mattis stated I make the motion that was just stated by our Chairman.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that's adjourned.

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**NEW PUBLIC HEARINGS:**

- A. **CASE NO. 2017-07** **Verplanck Riverside Park Inc.** Interpretation that the replacement of vacant mobile homes with manufactured homes is not an expansion of a non-conforming use on a pre-existing, non-conforming property at **250 Kings Ferry Rd., Verplanck, NY.**

Mr. John Mattis asked okay, this is my case. Can you explain what you're here for, what you're seeking?

Ms. Victoria Winkelmann stated I'm new at this so I'm sorry. Basically, what we want to do is: we purchased the trailer park at Verplanck Riverside Park Incorporated and it's been like not in the best of conditions and basically we want to improve it both for the neighborhood and you know, our, you know being able to oversee it. We want to replace four of the trailers that have been there. We are not making the trailers bigger. They're the same – well actually not the same square footage, they're less in each case and they – I'm getting nervous. I'm sorry. They're new. They're certified HUD approved and they're self-contained units. They have everything in them and they would be, I really think that they would be a boost to the neighborhood because they really, really, really look very nice and they're very, very, very nice inside. If we were able to replace them where the old trailers are that basically we would make the whole area something that people would kind of like turn their

heads and say “wow! How nice!” That’s basically what we want to do. We have right now, we have senior citizens. We have Veterans and we have low-income people living in the trailer park and we try to keep so it’ll be good for the neighborhood. I don’t know what else to say.

Mr. Herb Winkelmann stated the tenants that are going to be going into those units are going to be wounded Veterans through HUD. This is going to be set up for Veterans. We have many Veterans already but the new ones are also going to be Veterans.

Ms. Elizabeth Winkelmann stated I’m actually the realtor in charge of that. I deal with the program. It’s called HUD –

Ms. Adrian Hunte stated speak into the microphone.

Ms. continued I’m the realtor who would be dealing with that program

Mr. David Douglas asked what’s your name please?

Ms. Elizabeth Winkelmann stated her name and now the program is called HUD VASH and I have recovering Veterans, they’re waiting. They’ve been waiting for these trailers to be put in place and made – they’re ready to go. They just need the permit and put them in place. These guys have been waiting for months and months. It would then create low-income housing for them. Right now they’re living at the VA and they’re waiting for their homes.

Mr. John Mattis stated okay, I agree with you, it would improve the neighborhood. I agree that it’s noble that you’re trying to put Veterans in there. All of that is good but you’re aware it’s a non-conforming use right now? It’s a pre-existing, non-conforming use. What that means is it was established as a trailer park some years ago. The zoning was changed. Trailer parks are not allowed in that zone but since you have it you can keep it. You cannot expand it. You cannot change it. Unfortunately, what you want to put in there is by definition not a mobile home, it’s a manufactured home.

Ms. Victoria Winkelmann stated you can’t put in a mobile home or actually a trailer. It is a mobile home. Basically, the difference is that I think it’s 1976 where there were no more trailers that could be allowed as trailers so you can’t call them the same thing. I mean, they didn’t change...

Mr. John Mattis stated but the code only allows mobile homes. It does not allow manufactured homes.

Ms. Elizabeth Winkelmann stated but they are considered mobile homes. They are not considered manufactured homes.

Mr. John Mattis stated by definition of the Public Health Law they are considered manufactured homes. That’s the problem we’re wrestling with. They’re not considered mobile homes.



Ms. Victoria Winkelmann stated because they are on a permanent frame...

Ms. Elizabeth Winkelmann stated they permanently have wheels, they don't get taken away just as mobile homes, they have wheels and they never get taken away. That's the definition. I'm also an appraiser and that's the definition of a mobile home. It retains its wheels, it always has its wheels therefore it's a mobile home not a manufactured home. It also has a serial number and a VIN number as a mobile home, not a manufactured home. Manufactured home does not have a serial number or identification numbers.

Mr. Wai Man Chin asked what you're trying to replace it with is something with a chassis and wheels also?

Ms. Elizabeth Winkelmann responded yes. They're mobile homes. They're apples and apples, oranges and oranges. We are putting the same things back that are there just new condition.

Ms. Victoria Winkelmann stated excuse me but you know Mr. Hoch I don't think quite understands. I mean, I would be willing to actually show you people you know like what it is whatever proof you want I will get a hold of it and I'll show you because I mean we're not making it up. In fact, when we came to the Town they kept on saying they're modular homes, modulars and these are not modular homes.

Ms. Elizabeth Winkelmann stated Modular homes do not have VIN numbers.

Mr. David Douglas stated so now it seems that we've got – the issue before us is a little different than what the application is. The application is for an Interpretation. There doesn't seem to be a dispute over the Interpretation, there's a dispute over whether or not what you're doing is a mobile home or not. That's slightly different.

Mr. Wai Man Chin stated a little bit different.

Mr. David Douglas stated I guess we should adjourn this.

Mr. Wai Man Chin asked I'd like to adjourn this also but I'd also like to – is there any way of getting us some information on these supposedly new mobile homes; pictures, anything that's...

Ms. Victoria Winkelmann stated [inaudible 14:57]

Mr. David Douglas stated you don't have to do it right this second.

Ms. Elizabeth Winkelmann stated we'll put it together. Yes, she can get you information.

Mr. David Douglas stated we're not going to look at it for the first time right now.

Ms. Victoria Winkelmann stated that's fine but I figured I'd write down what you wanted or what

kind of things you want.

Mr. David Douglas stated what we basically need is the information about the homes that you're proposing to replace.

Mr. Herb Winkelmann stated he wants the literature of the company who builds them, puts out...

Mr. Wai Man Chin stated you said they VIN numbers and everything else on there so I mean this is not what we were looking at over here, you know what I mean? We were looking at manufactured homes.

Mr. John Mattis asked what are the sizes of these? How wide and how long?

Ms. Victoria Winkelmann responded they're different configurations but basically we kept below the square footages of each one of the units that we were replacing.

Mr. John Mattis asked what would be the width and the length?

Ms. Victoria Winkelmann responded they're all different.

Ms. Elizabeth Winkelmann stated we have them listed. We can submit them...

Mr. David Douglas said yes, if you could get us...

Ms. Victoria Winkelmann stated so you want the sizes right?

Mr. David Douglas stated what we want is whatever information you have about the specs regarding these new homes. You talked about VIN numbers and you talked about a chassis, whatever information you've got so we have a sense of what they are. We don't have any information about that.

Mr. Wai Man Chin stated you have to get that to Mr. Hoch so he could distribute it to us at our next work session for the next meeting.

Ms. Victoria Winkelmann stated because he's got a lot of information about the units. He's got the sizes and everything. We'll make you a whole packet.

Mr. John Mattis asked when were these taken off the property, the old mobile homes?

Ms. Victoria Winkelmann responded they're not. They're still there.

Mr. John Mattis asked they are? Are they being rented now?

Ms. Victoria Winkelmann responded not right now.

Ms. Elizabeth Winkelmann stated we had everybody removed simply because we had so long ago put in for permits and stuff and we removed things from the trailers too.

Mr. John Mattis asked when will they be vacated?

Ms. Victoria Winkelmann responded the last people were out in November, last November.

Mr. John Mattis asked November of this past year?

Ms. Victoria Winkelmann responded 2016.

Mr. John Mattis asked are you aware of the Board of Health requirements?

Ms. Victoria Winkelmann responded yes, we've been to the Board of Health

Mr. John Mattis stated you need 5,000 square foot for each...

Ms. Victoria Winkelmann stated yes we have that.

Mr. John Mattis stated make sure that – that's not our issue but that's something you would have...

Ms. Victoria Winkelmann stated we have at least 10 feet or more between each unit, quite a bit more actually.

Ms. Elizabeth Winkelmann stated they have acreage so the 5,000 is not a problem at all.

Mr. John Mattis stated but that's a Board of Health issue.

Ms. Elizabeth Winkelmann stated we've been all through the Board of Health and they have no problem right now.

Mr. John Mattis stated my understanding is they haven't reached any decision yet.

Ms. stated I know. Well so far -- stated we also have an original email that states if the square footages aren't greater and certain things are met, they have no problem, you can have a permit. We have an email stating that, now all of a sudden then it was a problem. I don't know what that was.

Ms. Victoria Winkelmann stated we're trying to find out like what's going on as far as that.

Mr. Wai Man Chin stated I think we need some more information like we asked for before we do anything.

Ms. Elizabeth Winkelmann stated okay, that's not a problem.

Ms. Victoria Winkelmann asked how do we get things to you?

Mr. David Douglas responded you should give them to Mr. Hoch. Mr. Hoch is the contact person. Speak with him...

Mr. John Mattis stated and he distributes them to us.

Mr. Wai Man Chin stated and then he'll distribute them to us before the next work session.

Ms. Elizabeth Winkelmann asked when is the next work session?

Mr. David Douglas responded April 17<sup>th</sup>.

Mr. John Mattis stated it's the Monday before the meeting. The meeting is the 19<sup>th</sup>. He needs it like two weeks before that.

Ms. Elizabeth Winkelmann stated okay, no problem.

Mr. David Douglas stated what we do is – if you want to, it's up to you. We have a work session on Monday the same day of the meeting so if you want to come and talk with us at the work session you're free to or you can just come to the meeting. On Monday, the 17<sup>th</sup> we have a work session where we discuss issues and then we have this meeting on Wednesday the 19<sup>th</sup>.

Mr. Wai Man Chin stated the work session is open to the public also.

Mr. David Douglas stated it's open to the public.

Ms. Victoria Winkelmann asked is it here?

Mr. Wai Man Chin responded yes, right down the hall it's a conference room down the hallway. It's at 7:00 o'clock also.

Mr. Herb Winkelmann asked if you want to come and look we'd be happy to show you around and give you a tour.

Mr. David Douglas stated we might. We want to get the information you're going to provide...

Mr. Wai Man Chin stated we want the information first so we could get in our minds what everything looks like and everything else, then we might want to whatever. I know you want to try to rush this but we can't do that.

Ms. Elizabeth Winkelmann stated we've already not rushed it.

Mr. Herb Winkelmann stated can't do much concrete work this week anyway.

Mr. John Mattis asked is there anyone in the audience who would like to speak regarding this case?

Mr. David Douglas stated if you just state your name and address.

Ms. Mary Mosco stated her name and stated I don't own the trailer park but I do own a trailer in the trailer park and I put a lot of money into it. I have a beautiful view of the river but I also have a dilapidated trailer next to it that I have to look at so I think that it would be a great improvement if you let them do this. Thank you.

Mr. John Mattis stated you're welcome. Anyone else? I move that we adjourn case #2017-07 to the April meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated it's adjourned to the April meeting. Thank you.

**B. CASE NO. 2017-08 Kurt and Deidre Knight** for an Area Variance for the front yard setback for a sunroom alteration, 2<sup>nd</sup> floor addition, and existing front deck; and an Area Variance for the rear yard setback for an existing mudroom and shed on property located at **18 Marilyn Rd., Cortlandt Manor, NY.**

Mr. Steven Basini stated good evening. I'm Steven Basini. I'm the architect for the applicant Kurt and Deidre Knight at 18 Marilyn Road. They are present. We're here tonight to request a variance primarily for a renovation or a reconstruction of an existing sunroom and an addition of a second floor above that sunroom and team with that also there's an addition, there's a deck rather, I'm sorry a variance for the rear yard to the house which is pre-existing non-conforming and to a shed that's pre-existing non-conforming as well as an accessory structure to the rear of the property line. The proposal is to reconstruct that sunroom. Right now that is an old deck that was closed in. As you see in most houses they put walls up and they poorly insulate it and they put windows in and it's essentially steps down about three inches from the main house into the sunroom and it's on wood piers, wood posts and a concrete pier foundation. It would not hold a second floor addition. As part of a kitchen renovation that they were proposing they also realized they had an issue upstairs. They have two teenage children. They have three bedrooms upstairs, small size and one bathroom. What they'd like to do was actually in that front half of that sunroom where they built out that second floor, they'd like to expand their master bedroom and also expand one of their son's bedrooms and then add a second bathroom for the occupants. The front of the house actually is 35.2 feet. The existing sunroom is 35.2 feet from the front property line, however, the deck as you see on there is 27.7 feet so technically I believe that would supersede the variance although that is pre-existing, non-conformity as well. So the variance that we're requesting is as further away from the property line than the existing deck would be. It is also right over the footprint of the existing sunroom. The

plan is to essentially rebuild a proper foundation underneath or proper pier foundation that would support two stories, underneath the existing sunroom, once it's demolished – and we're asking for 34 feet instead of the 35.2 feet because that bay window on the proposal you see on the elevation – well not that picture but, on the elevation of the same drawing there's a bay window that comes out a little bit further than the existing one does plus also there's rock up there and in anticipation of maybe if one of those posts, piers have to be moved in and out a little bit, I don't want to be caught short and ask for another variance. We're asking for 34 feet for a variance.

Mr. Wai Man Chin stated this is my case. I drove by the site. I saw the bay window, the existing bay window there and everything else, now you're telling me that you're kind of rip underneath and rebuild that to support that whole thing now. That bay window, of course, sticks out about a foot and a half almost beyond the rest of the structure and I saw the shed in the back over there also and I'm surprised that we didn't catch on the last time you came in front of us back then for some reason. I think it was a diminimus...

Mr. Steven Basini stated it's the same owners actually.

Mr. Wai Man Chin stated it was like 0.4 feet. So looking at everything there myself I really don't have a problem with what you have there and what you want to do there because you're up on a hill and from there it goes quite a ways to Westbrook Drive on the other side way over the other side and the neighbors next to your – are quite a distance away actually. I didn't see there was going to be any problem. It's almost the same house except that you're fixing it a little better, architecturally and structurally sound.

Mr. Steven Basini stated thank you for saying that, actually yes, it was one of the points in my letter that I issued as well is that as far as the character of the neighborhood but what we really tried to do is maintain that low-sloped roof in the front elevation. We could have put a gable there but it would have brought it up higher than what is visible now. We really tried to make it match the character. Yes, the house next door actually is actually further forward slightly. When you look at the planes they're almost identical. As you go down that street, and I provided tax maps here in case you wanted to see them...

Mr. Wai Man Chin stated I drove down...

Mr. Steven Basini stated you can see all the houses down that street are beyond the 40 foot. We're not asking, again, for an additional encroachment, it's just rebuilding what's there and thank you for saying that.

Mr. Wai Man Chin stated exactly.

Mr. David Douglas asked anybody else?

Mr. Ray Reber stated I'll simply concur that, for all practical purposes, you're using an existing footprint. You're really not encroaching any significance in any direction and it's in the character of

the neighborhood. So yes I think this is very acceptable.

Mr. John Mattis stated I agree.

Mr. Steven Basini stated thank you.

Mr. David Douglas asked anybody else want to be heard?

Mr. Wai Man Chin asked anybody in the audience? I'm going to make a motion on case 2017-08 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Wai Man Chin stated I make a motion on case 2017-08 to grant the Area Variance from the front yard setback for a required 40 feet down to 34 feet for the sunroom alteration and second floor addition and the required 34 feet down to 27.7 feet for the existing wood deck, Area Variance for the rear yard setback for the required 30 feet down to 26.8 feet for the existing rear mudroom and 6 feet down to 5.6 feet for the existing rear yard shed. This is a type II under SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your variance is granted.

Mr. Steven Basini stated thank you for your time.

Mr. David Douglas stated and you should go – find out from Mr. Hoch when the paperwork is ready and then you can proceed.

Mr. Ken Hoch stated I'll call you.

**C. CASE NO. 2017-09 Michael Soravilla** for an Area Variance for the side yard setbacks for an existing deck and a proposed addition on property located at **121 Lockwood Rd. Cortlandt Manor, NY.**

Mr. Michael Soravilla stated good evening.

Mr. David Douglas stated tell us what it is you're seeking.

Mr. Michael Soravilla stated we're just looking to expand our kitchen which is just pushing it out in the back into the side, taking a small square spot of our property where the garage ends to the

back of our home and just try and square that off. It seems to be in the setback.

Mr. David Douglas stated Mr. Reber this is your case.

Mr. Raymond Reber stated there was a little confusion when I was looking at the plans. It talks about a garage but it's not a garage currently is it?

Mr. Michael Soravilla responded I have a garage but we're taking over the garage. The Variance is the back of the house where we're filling in the empty spot of the garage – where the garage would meet the back corner of the house.

Mr. Raymond Reber stated the Variances are not major: 2.9 feet on the setback for the "addition" which is essentially your garage which you're going to incorporate into the main occupancy of the house. As I look at it and compare it to the neighborhood, the structure you have it and that's essentially what you're going to be using is very similar to your neighbors. The lot coverage, the setbacks, the size, they all match almost identical with what you've got. I look at this and I don't see anything here that's out of the ordinary or unusual for the neighborhood. I don't think it's a significant deviation from what's in the neighborhood so I don't have a problem with it.

Ms. Adrian Hunte stated I concur.

Mr. John Mattis stated I concur also.

Mr. Wai Man Chin stated no problem.

Mr. Raymond Reber asked anyone else have a comment to make? If not, I'll make a motion on case 2017-09 application of Michael Soravilla on 121 Lockwood Road to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated it's granted...

Mr. John Mattis stated we did step one, we closed the public hearing.

Mr. David Douglas stated never mind, I jumped the gun.

Mr. John Mattis stated now we need step two which is the vote.

Mr. David Douglas stated I think you know which way it's going.

Mr. Raymond Reber stated on case 2017-09 application of Michael Soravilla from 121 Lockwood Avenue asking for an Area Variance for a side yard setback for an addition or garage as it exists from a required 16 down to 13.1 feet which is a 2.9 foot Variance and a side yard setback on the



deck from 13 down to 11.5 feet which is a 1.5 foot Variance. This is a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated now it's granted.

Mr. Michael Soravilla stated thank you.

**D. CASE NO. 2017-10 Michael Piccirillo, Architect, on behalf of Dennis Sherwood** for an Area Variance for the side yard setback for a proposed garage on property located at **70 Paulding Lane, Crompond, NY.**

Mr. Dennis Sherwood stated good evening.

Ms. Adrian Hunte stated good evening Mr. Piccirillo.

Mr. Dennis Sherwood stated he's the architect that drew the plans.

Ms. Adrian Hunte stated I'm sorry.

Mr. Dennis Sherwood stated he's the architect. I'm the owner, Dennis Sherwood.

Ms. Adrian Hunte asked would you explain to us what you're trying to do?

Mr. Dennis Sherwood responded I'm looking to add a garage to the left side of the house, looking in from the street.

Ms. Adrian Hunte asked and above the garage you're planning to have storage?

Mr. Dennis Sherwood responded just empty storage, yes. Not living space or anything like that, just...

Ms. Adrian Hunte asked and is that storage is accessible through the main house?

Mr. Dennis Sherwood responded no.

Mr. John Mattis asked only through a stairway garage?

Mr. Dennis Sherwood responded a pull-down stairway and a garage, correct, yes.

Ms. Adrian Hunte asked would you explain to us the – apparently there was a side yard Variance

granted back in 2008.

Mr. Dennis Sherwood responded that is correct, yes.

Ms. Adrian Hunte asked and what happened? You did not go forward with that?

Mr. Dennis Sherwood responded I didn't go forward because it wasn't wide enough for a two-car garage and for all the stuff and the garage just opened the doors – it was small. It was only I think 18 feet wide or 16 feet wide and it just didn't work for the plans I was looking to do. also, I'm sorry, also there was an issue prior to my neighbor – the people from California that owned the house to the left of me had an issue stating that they would rather have not me seen putting up a garage but if I did would I put some trees to block the view. From there now there's a new owner and I also have a letter from the new, current owner saying that there's no problem, no issues and he has no concerns at all.

Ms. Adrian Hunte asked Mr. Hoch, do we have that letter?

Mr. Dennis Sherwood responded I have it here I'm sorry.

Ms. Adrian Hunte asked do you want to give it to him so we can – or read it?

Mr. Wai Man Chin asked I'd like to ask one question: on the plans that was drawn by Mr. Piccirillo, on the second floor plan he shows that attic above your garage, or storage, you have a doorway coming in from the bedroom.

Mr. Dennis Sherwood stated no there's no doorways at all.

Mr. Wai Man Chin stated on the drawing.

Mr. Dennis Sherwood stated the doorway you're seeing is it on the first floor or the second floor?

Mr. Wai Man Chin responded on the second floor.

Mr. Dennis Sherwood stated I don't know why he has that.

Mr. Wai Man Chin stated well that's what he has.

Mr. Dennis Sherwood stated yeah I don't know why that's there. The only doorway that's coming in from the house is going into the garage because the garage is going to be elevated to the first floor.

Mr. Wai Man Chin stated and he's calling for a 3' x 6.8' door from the bedroom into the attic space, bonus room or whatever you want to call it.

Mr. Dennis Sherwood stated there's no way – I don't know why he has that there. I didn't even realize it.

Mr. Wai Man Chin stated that's what's shown on the drawings right now.

Mr. Dennis Sherwood stated I don't know why that was...

Mr. Wai Man Chin stated I see it from a couple of steps coming from the garage going into the first floor...

Mr. Dennis Sherwood stated yes two or three steps going to the first floor.

Mr. Wai Man Chin stated and another door going from the bedroom into that space.

Mr. Dennis Sherwood stated I don't know why that's there. I'd have to go over that with him.

Ms. Adrian Hunte stated well we need clarification on that because obviously...

Mr. Dennis Sherwood stated that's a mistake. I don't know why he would have done that. There's no reason to. I'm looking for a garage space, not any more living space. It's big enough as it is.

Ms. Adrian Hunte stated we have the second floor as showing a bedroom door to the attic.

Mr. Dennis Sherwood stated I don't even have the plans in front of me.

Ms. Adrian Hunte stated that's incorrect you're saying.

Mr. Dennis Sherwood stated that's incorrect, yes. There's no – the only doorway is coming off of the first floor going into the garage to access the garage to the house.

Ms. Adrian Hunte stated I see the garage door to – I can't read that, on the first floor. We have some concerns, or I have some concerns. This is a fairly large variance perhaps not in terms of the actual footage but it's a 55% Variance and what alternatives might you have. In other words, is it possible to make this smaller?

Mr. Dennis Sherwood responded we actually shrunk it down from the previous because I was originally starting at 25 feet wide and we actually shrunk it down now to 22. It's really not feasible to have two cars in the garage and be able to open the doors and get out and maneuver around them. That's a really busy road and bad road and...

Mr. Wai Man Chin stated either we have the wrong plans or something because right now I still have 25 foot wide...

Mr. John Mattis stated we were talking at our work session at 25 which is what the plans are and the plans have a door. I think we need revised plans.

Mr. Wai Man Chin asked and the garage is 55 foot long? Am I reading that right?

Mr. Dennis Sherwood responded 35.

Mr. Wai Man Chin asked 35?

Mr. Dennis Sherwood responded 35; 22' x 35'.

Mr. John Mattis asked 22' x 35'?

Mr. Dennis Sherwood responded yes.

Mr. John Mattis stated I think we need revised drawings that show this correctly: take the door out, because we don't want access into the house, because we don't want you to make it a room.

Mr. Dennis Sherwood stated no, we're not making – I don't want any more living space.

Mr. John Mattis stated and I'll read something to you that we go by, okay, and I've used this in other cases. I've researched this on the Internet and I keep it. Generally, the minimum recommended size of a two-car garage is approximately 20 feet wide and 20 feet deep. You want 22' x 35'. I couldn't approve something like that. We are supposed to approve the minimum that meets the requirement: 20 feet wide, because you're asking for a very substantial Variance and 35 is way too much also.

Mr. Dennis Sherwood stated the depth is – I have plenty of room from the back side Variance to go deep.

Mr. John Mattis stated you don't need a variance for the back.

Mr. Dennis Sherwood stated I can go plenty – I can go deep as...

Mr. John Mattis stated but you're asking...

Mr. Wai Man Chin stated the width.

Mr. Dennis Sherwood stated 20 would work for me.

Mr. John Mattis stated you can come back with a 20 foot and come back with no door, okay?

Mr. Dennis Sherwood responded okay.

Ms. Adrian Hunte asked anybody in the audience wish to speak?

Mr. Dennis Sherwood asked I just got those plans. I'm not sure why they're...

Mr. Wai Man Chin stated right now it says 25 on there.

Mr. John Mattis asked what's the date on this?

Mr. Dennis Sherwood asked and it says 55 feet deep?

Mr. Wai Man Chin responded well it's so small I can hardly see...

Ms. Adrian Hunte stated it's very small.

Mr. Wai Man Chin stated even with my glasses I can barely read it but you know I thought it said 55 but they say it's 35, but they also show the door on the second floor going from the bedroom...

Ms. Adrian Hunte stated there's a certification from the licensed professional, however, it's not signed or dated so I don't know whether this was just [inaudible 37:58] or draft but we do need revised plans showing the proper dimensions.

Mr. Dennis Sherwood asked you guys aren't seeing the plans from when they first originated when we...

Mr. John Mattis responded we're seeing what was submitted to Mr. Hoch.

Mr. Wai Man Chin stated this was submitted to us. I don't know.

Mr. Dennis Sherwood stated I'm just wondering if that's the wrong set of plans because I brought down a brand new revised set of plans that are 22' x 35'.

Mr. John Mattis stated that isn't what we have and there's no date on this so we can't refer back – it calls it SP-1.

Mr. Wai Man Chin stated it has a date on the revision 2/17.

Ms. Adrian Hunte stated there's a date down here 1/28/2017.

Mr. Wai Man Chin stated it says revision...

Mr. Dennis Sherwood asked can I just see what you have?

Mr. Wai Man Chin asked sure. See the door from the second floor going from the bedroom in also and you see the 25 foot on here? It says 25 foot. We need a correct set of plans, let's put it that way. I mean I've got my glasses on and I can barely read it.

Mr. John Mattis stated I couldn't even find the date there; it's so small.

Mr. Wai Man Chin stated with my glasses I'm seeing 25. I don't know.

Mr. David Douglas stated I thought I saw 23 but you know who knows?

Mr. Dennis Sherwood stated [inaudible 39:22]. I do see what they're saying, the 35 and it looks like it says 23/6 in the back.

Mr. Wai Man Chin stated even with my glasses I can't read that.

Mr. John Mattis stated well that certainly isn't the 22 that you said. This must be earlier.

Mr. Wai Man Chin stated like Mr. Mattis said, most of the time, even my own garage is only 20 feet wide and I've got a two-car garage.

Mr. Dennis Sherwood stated 20 would work.

Mr. Wai Man Chin stated 20 would work. I have no problem with 20 foot but...

Ms. Adrian Hunte stated all right, thank you. Hearing no other comments...

Mr. Raymond Reber stated wait, wait, I'd like to throw in my two cents.

Mr. Wai Man Chin asked can I have those back? That's my copy anyway.

Mr. Raymond Reber stated I understand that this board will probably want to give you a Variance but conceptually I have a problem with this insistence that you need a two-car garage. I think you already admitted that you were turned down once before. The thing that bothers me is when I look at the neighborhood, it's true that you have neighbors, particularly the one on your left, he has a massive garage: detached, covered garages. All those other lots that have all these large garages and what have you, are much larger. When you look at the setbacks, the distances from property lines to structures on all your neighbors, they're all reasonably at or beyond what we ask for. You have a narrow lot. Your house is squared up to the lot and even the issue of how deep you make the garage, when it's parallel to the lot, you're now imposing on your neighbor. You want to impose a 35 foot wall, basically two stories high that's not going to be the setback that the Town asked for. If somebody comes to me and says I'm going to make it 3 feet, well that's a lot less intrusive. I mean a neighbor, you can plant a tree there or whatever. 35 feet is a big face that's going to be sitting there he's going to look at. Other situations and I know we have a gentleman sitting in the back questioning a decision earlier, that house if you

looked at the way it was angled and you look at the property lines, if you move away from the corners of that garage that he wants to build, his setbacks increase rapidly. It's only the corner of the building that we had to give really a variance on and it's because of the unusual lines. I get a little nervous here when I think of physically what you're doing as it fits into the neighborhood and so I have a problem with pushing the limits on this. You legally, if you can build and stay within the 20 foot setback we can't stop you. I have a problem when you want to go and encroach on that and put a 35 foot wall up and it's going to be a two-story structure when in that neighborhood I don't see that anywhere. That's my opinion.

Mr. Dennis Sherwood stated the neighbor that is going to see that wall is the one that wrote the letter and I showed him the plans and he's well aware of what's going to be done.

Mr. Raymond Reber stated I understand but I have to be a little reticent to accept neighbor's letters because there's all sorts of reasons why neighbors will say what they say, good and bad. I think we have to be totally objective and democratic about it and not base it on the opinions of individuals but think of the character of the neighborhood and what the zoning code is trying to maintain or achieve as the Town has written it. I tend to let that dictate my decisions and not so much, even though most people they want to express their opinion that's fine, we want to hear it if it's about an issue but I think the overwriting issue is the character of the neighborhood and to me, this really does seem to impact on it. Thank you.

Mr. Dennis Sherwood stated there are some Variances that were on that road that were granted in excess of 9 feet and one of the properties is 69 Townsend Road and the...

Mr. Raymond Reber stated 69 Townsend, but it's a different street, but all right we can look at it.

Ms. Adrian Hunte stated we have a fundamental issue here as well and I think we need to put this matter over to the next – so you can get revised plans and we can consider all these other issues. On case...

Mr. David Douglas stated before you adjourn it I want to also say that if you come back with those new plans, I don't want you to misunderstand that we're automatically going to grant it.

Mr. Dennis Sherwood stated sure, sure, of course.

Mr. David Douglas stated I just want to make sure that's clear because I know Mr. Reber has some concerns. I've got some concerns.

Ms. Adrian Hunte stated we all have concerns so we're putting the matter over. On case #2017-10...

Mr. Dennis Sherwood stated I'm sorry, prior to those other concerns that you might have if we do shrink it down and bring you the new set of plans just shrinking the width of it.

Mr. David Douglas stated I'll tell you, my fundamental concerns. I share the concerns of Mr. Reber expressed. I also want it clear as to -- we granted you a 14 -- Variance and the 14 feet last time and I want that to be clear as to why you need to have a substantially larger one now, down to 9 feet. So I just want that to be clear. Those are my concerns.

Mr. Dennis Sherwood stated it was just the width that just...

Mr. David Douglas stated we can discuss that next month but you asked me what...

Mr. Dennis Sherwood stated sure, sure. Any other concerns besides...

Mr. David Douglas responded I also have concerns about the storage area above.

Mr. Dennis Sherwood stated like I said, that's just going to be strictly storage. No more living space. I only have two young daughters and they both have nice size rooms and I'm not looking to expand any living space whatsoever.

Ms. Adrian Hunte stated well we'd like to see the visual on that stairway that's going up through the garage as well. Any other comments? On case #2017-10 Michael Piccirillo, architect on behalf of Dennis Sherwood, for 70 Paulding Lane, Crompond, N.Y. 10517 for an Area Variance for the side yard setback for a proposed garage addition, I make a motion that we adjourn this matter to the April 19<sup>th</sup>, 2017 Zoning Board of Appeals meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated this is adjourned to April.

Mr. Dennis Sherwood stated and also, we're just looking for a stamp and a date there's not on those papers now?

Mr. John Mattis stated there's something but it's very hard to see.

Mr. Dennis Sherwood asked it is there or it's not there.

Mr. Wai Man Chin responded the architect's stamp is there.

Mr. Dennis Sherwood asked it's there, so it's all there?

Ms. Adrian Hunte responded there's another area there's no date and certification by a professional but there is a stamp on the corner from the architect and date.

Mr. Dennis Sherwood stated thank you very much.

Ms. Adrian Hunte stated thank you.



Mr. David Douglas stated thank you.

Mr. Wai Man Chin stated there's a stamp and architect's stamp and signature right there.

Ms. Adrian Hunte stated yes, we said there is.

Mr. John Mattis stated but the date is almost...

Mr. Wai Man Chin stated right above it is the date.

Ms. Adrian Hunte stated we have the date. I'm not referring to that. I'm referring to another portion on this document that is talking about certification by a professional which has no date or name.

Mr. David Douglas stated so anything that's not dated, you make sure it's completed.

Mr. Dennis Sherwood stated okay, thank you very much.

Mr. David Douglas stated okay, thanks.

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## **ADJOURNMENT**

Mr. John Mattis stated I will move that we adjourn the meeting.

Seconded.

Mr. James Kenny stated I have a question on process.

Mr. David Douglas stated sure, sure.

Mr. James Kenny stated maybe a comment and a question. Mr. Reber, I liked your last comments. I think that they applied to what we were going after but I just had a question on process relative to tonight's decision and appealing that decision. What are – I'm not a lawyer. I've heard about mandates and timeframes relative to that. What are our options relative to appealing tonight's decision?

Mr. David Douglas responded with the caveat that we're not going to give you legal advice, I think that our attorney's going to tell you something but just remember that's the caveat. You should not rely on it.

Mr. John Klarl stated this is not an approval or denial on last night's meeting. What happens is when someone makes an application here, they're granted the application or denied, someone can bring an article 78 to the Supreme Court and the County which is Westchester County. You can challenge a decision of a board by virtue of bringing an article 78 proceeding.

Mr. James Kenny asked and the timeframe within...

Mr. John Klarl stated there's a timeframe. I'll let you search that one. The answer might be 30 days.

Mr. James Kenny stated 30 days.

Mr. David Douglas stated again, it might be 30 days and you should confirm that.

Mr. John Klarl stated you should confirm that with your own private counsel.

Mr. David Douglas stated we're just being real careful here to make sure it's clear that we're not giving you any advice.

Mr. James Kenny stated I totally understand that, for the record.

Ms. Adrian Hunte stated and article 78 refers to the New York State Civil Practice Law and Rules but that once again is something that you need to confer with your counsel or do your research to be sure of that.

Mr. John Klarl stated your attorney should know that.

Mr. John Mattis stated basically, an appeal is called an article 78. That's a section of the law.

Mr. James Kenny stated thank you so much.

Mr. John Mattis stated now being no further business, I move that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

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**NEXT MEETING DATE:  
WEDNESDAY, APRIL 19, 2017**