

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, May 19th, 2010*. 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:

Charles P. Heady, Jr.
James Seirmarco
John Mattis
Adrian C. Hunte
Raymond Reber

Also Present

Wai Man Chin, Vice Chairman
Ken Hoch, Clerk of the Zoning Board
John Klarl, Deputy Town attorney

ADOPTION OF MEETING MINUTES for April 21, 2010

Mr. John Mattis stated I move that we accept the minutes.

So moved, seconded with all in favor saying "aye."

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PUBLIC HEARINGS ADJOURNED TO JULY 2010 DUE TO THE MORATORIUM

- A. **CASE No. 51-08** **John Nolan dba Cortlandt Organics** for an Interpretation if leaf composting and wood waste processing facility is a permitted use in the M-1 district on the property located at **33 Victoria Avenue, Montrose.**

- B. **CASE No. 06-09** **Department of Technical Services** for an Interpretation as to what constitutes demolition/distribution of concrete aggregate as it was used in Zoning Board of Appeals **Case No. 33-08** Decision and Order.

- C. **CASE No. 18-09** **Post Road Holding Corp.** for an Area Variance for the dwelling count for a proposed mixed use building on the properties located at **0, 2083 and 2085 Albany Post Road, Montrose.**

- D. **CASE No. 08-09** **Jorge B. Hernandez, RA for M & S Iron Works** for an Interpretation if a structural steel & iron erector is a Special Trade Contractor on the

property located at **439 Yorktown Road, Croton-on-Hudson.**

Mr. David Douglas stated our first series of cases have been adjourned to July, we've got **case #51-08**; John Nolan dba Cortlandt Organics, **case #06-09** Department of Technical Services, **case #18-09**; Post Road Holding Corp., **case #08-09**; Jorge B. Hernandez all have been adjourned to July. Mr. Klarl you want to explain what the status is with those?

Mr. John Klarl stated those were adjourned to July because of the Moratorium. Come July we're going to see if the Moratorium is lifted or still in place so we can entertain those.

PUBLIC HEARINGS ADJOURNED TO MAY 2010 FOR TOWN BOARD ACTION

- A. CASE No. 11-09 King Marine** for an Interpretation that the previous non-conforming use obtained by Briar Electric can be changed to a non-conforming use for marine storage, sales and services on the property located at **285 8th Street, Verplanck.**
- B. CASE No. 30-09 Dominick Santucci** for an Interpretation that allows dwelling units over the existing commercial use on the property located at **2064 E. Main Street, Cortlandt Manor.**

Mr. David Douglas stated next on the agenda we've got two public hearings that were been adjourned to this month: **case #11-09**; King Marine and **case #30-09**; Dominick Santucci. We're awaiting action from the Town Board. We've discussed this previously and the idea was we would further adjourn both of these matters until July. We expect the Town to have acted by that point.

Mr. John Mattis stated I move that we adjourn these cases to July, seconded with all in favor saying "aye."

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CLOSED AND RESERVED DECISIONS

- A. CASE No. 07-10 Charles and Diana Jones** for an Area Variance from the requirement for the front yard setback for a proposed covered porch and open stair on the property located at **95 Valley View Road, Cortlandt Manor.**

Mr. James Seirmarco stated Mr. Chairman we've had a number of public hearings. We've got input from the applicant, input from the applicant's neighbors and the neighborhood. We've had a lively discussion about the pros and cons of this application between our Board members. I believe that we all have some strong opinions about this but I think at this point I would like to

make a motion to approve the area Variance from the front yard setback for the proposed covered porch and there is a number of Variances required in a table and I won't read them all. I assume that the D&O will refer to that table that's on the application. This is a type II SEQRA no further compliance is required, seconded.

Mr. David Douglas asked all in favor? Aye, any opposed? Nay. Poll the Board please.

Mr. Ken Hoch stated Mr. Reber; opposed, Mr. Mattis; opposed, Ms. Hunte; grant, Mr. Seirmarco; yes, Chairman Douglas; opposed, Mr. Chin; yes, Mr. Heady; yes. Vote carries 4 to 3.

Mr. David Douglas stated your Variance has been granted. Mr. Hoch how many days do you need for them before they can come in?

Mr. Ken Hoch responded give me 3 or 4 days and we should have it signed.

Mr. John Klarl asked you want to tell them next Tuesday?

Mr. Ken Hoch responded yes, next Tuesday.

Mrs. Diana Jones stated on behalf of my husband Charlie and myself we'd like to thank the Board for allowing this to come to fruition for us. We're really very happy and we thank you so much. I would also like to take this opportunity to thank Mrs. Puglisi. She has been so encouraging and her open-door policy has restored our faith in the Town Government. Last but not least I'd like to thank Mr. Hoch for his advice, his patience and the courtesy with which he greeted me every time I presented myself on his doorstep. You are a credit to our community and I'm very glad you're with us. Thank you very much everyone.

B. CASE No. 01-10 Zuhair Quvaides for an Interpretation of the definition of outdoor storage and vending machines on the property located at **2072 E. Main Street, Cortlandt Manor.**

Mr. David Douglas stated that's one we're doing coordination with the Planning Board correct?

Mr. John Mattis responded it's a coordinated review.

Mr. David Douglas stated so that's a coordinated review so we'll continue to keep that open.

Mr. John Mattis asked do we have to officially adjourn that?

Mr. John Klarl responded we should. What we did at the April 21 meeting I summarized the D&O we had that night. The Board indicated that they looked on the D&O favorably but we said we'd only adopt the Zoning Board of Appeals Decision and Order when the Planning Board was ready to adopt their Planning Board Resolution to observe coordinated review in this type of

matter. We should, as Mr. Mattis indicated, adjourn to a given date and see if the Planning Board has acted at that point, we can act or further adjourn it. I think we should get a specific date.

Mr. David Douglas asked do we know when this is next on before the Planning Board?

Mr. John Klarl responded I'm not exactly sure but what we can do is put it to the next agenda, the June 16th meeting. Adjourn it to the June meeting, seconded with all in favor saying "aye."

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ADJOURNED PUBLIC HEARINGS

A. CASE No. 06-10 Nida Associates for Area Variances for subdivision of four existing tax lots into four real property lots at **5 and 14 Dove Court, 2003 and 2005 Albany Post Road, Croton-On-Hudson.**

Mr. Raymond Reber stated Nida Associates is really the property that contains the A&P, the Chase Bank and a commercial building strip as well as a sewage treatment plant down on Albany Post Road and Dove Court, Amberlands Shopping Plaza for those who think of it that way. The question that has been raised is that they would like to subdivide that so that each of these entities are an independent parcel, something that concerns me, mainly because of the sewer plant. I have a real problem because of the way that's being proposed it'll have no land, no buffer, nothing. It's just going to be a lot the size of the building basically. However, in the interim because this is also being reviewed by the Planning Board there has been a communication from the director of the Department of Technical Services and the deputy planning director listing a number of questions that the applicant will have to respond to which obviously will help us in better understanding the issue also so I think at this point there really isn't much we can do until this whole list is completed to satisfy the Planning Board and, like I said, it will be information for ourselves.

Mr. Ralph Mastromonaco asked do you have a list that I can have? Is there a written memorandum of something?

Mr. John Mattis responded to the Planning Board.

Mr. Raymond Reber stated the Planning Board division conducted the review.

Mr. John Mattis continued from Ed Vergano.

Mr. John Klarl stated there was a review memo that was put together September 22, 2008 and it goes to the Planning Board from Mr. Vergano and Mr. Vershoor and there was cc a lot of people on it and they cc'd Nida Associates and Ralph Mastromonaco. It's probably in Mr.

Mastromonaco's old files but it was September 22, 2008 review memo and I think at the end of the last meeting what we said we were going to try to pull the memo which we did and see if we had a response of the memo from the applicant. I think Ralph they found the review memo didn't see your response which you usually generate.

Mr. Ralph Mastromonaco asked wasn't that the memo that said we needed a Variance and that's why I'm here?

Mr. John Klarl responded I think it said a number of things and let's see if they identified a Variance. In **item 4** it says "proposed **lot 4** will contain the existing sewage treatment building proposed lot is substandard as to area and setbacks. The applicant should provide information regarding the status of this lot. If the lot does not have a pre-existing non-conforming status then the applicant should apply to the Zoning Board of Appeals for the appropriate Variances." So, they identified Variances as to **lot 4**.

Mr. Ralph Mastromonaco responded yes, and then when we made that application there were a number of other Variances that came up. It wasn't just the sewage treatment plant.

Mr. John Klarl stated you have to go back and take a look and see.

Mr. Ralph Mastromonaco continued it's kind of a catch 22. Mr. Reber saying go back to the Planning Board but they told me to come here.

Mr. John Klarl asked do you, Ralph obviously in the memo of September 2008 they identified one Variance for one lot, **lot 4**, do you think the Planning Board called out some Variances after the memo?

Mr. Ralph Mastromonaco responded that was probably not written by the building inspector who would have itemized any Variances at the time.

Mr. John Klarl stated no it was written by the team Vergano and Vershoor.

Mr. Ralph Mastromonaco stated so that didn't list all the Variances that we needed. We knew we needed Variances but we had to apply with the Planning Board first.

Mr. Raymond Reber stated that's **item 4** in this memorandum. It says "proposed **lot 4** will contain the existing sewage treatment plant. The proposed lot is substandard as to area and setbacks. The applicant should provide information to the Board" – obviously this is the Planning Board – "regarding the status of this lot. If the lot does not have a pre-existing, non-conforming status then the applicant should apply to the Zoning Board of Appeals for the appropriate Variances or eliminate the lot and combine it with one of the adjacent lots with appropriate easements." That's my concern. The "or" to me is the right way to go. I can't see granting a Variance if this is the situation that we have here.

Mr. Ralph Mastromonaco stated it's not non-conforming. That was built in **1967**.

Mr. Raymond Reber stated but at the time it was contiguous with part of the property. It wasn't a standalone approved piece of property. That's the issue.

Mr. Ralph Mastromonaco stated it wasn't – the structure itself was built in '67 and it conformed to the Zoning at that time.

Mr. Raymond Reber stated yes, on a larger parcel of property, as a building on that parcel. It's not pre-existing that that was an independent parcel back then and trying to grandfather it.

Mr. Ralph Mastromonaco stated that is part of the problem is that we do have tax lots.

Mr. Raymond Reber stated but tax lots don't count.

Mr. Ralph Mastromonaco stated there is a separate tax lot and that's what we're trying to do. We're trying to legalize that tax lot. It's been there for years and years and years.

Mr. Raymond Reber stated but we face that all the time. A lot of the Colonies for example when they were laid out they set up tax lots and they were very narrow and nobody could build on them so we double them and...

Mr. John Klarl stated we do that in shopping centers all the time. Like McDonald's will take a pad inside the parking lot if you want to have their taxes identified for that pad so we give them a separate tax blocking lot so the landlord has to distribute it. It's still the property of the Cortlandt Town Center with a given pad with a certain section block and lot.

Mr. Ralph Mastromonaco asked are you suggesting that I go back to the Planning Board?

Mr. Raymond Reber responded I'm just asking for clarification. Have all these other issues been addressed? Quite often, in a coordinated review, we don't make a final decision on a Variance until we know where the Planning Board – in fact we just had the embarrassment where we had to correct ourselves because we thought we had what was being approved, we granted a Variance and then the Planning Board came back and said "no, that's the wrong Variance," so we had to do it again. I want to make sure; is that the only issue in terms of the Variance that's required, that **lot 4**? This is an old memorandum. I'd like to see something updated that says "yes everything else according to the Planning Board is fine the only issue is will we give a Variance so that they can separate that lot?"

Mr. Ralph Mastromonaco stated I've got you, and for Mr. Klarl now, when I appear before the Planning Board, the Planning Board can they take this project further? Can they give a preliminary approval subject to a Variance?

Mr. John Klarl responded they can do it but generally in this situation they wouldn't do that. We'd do it more of a pedestrian application. Here they would want to do a coordinated review and both Boards act and when they're both ready to act, give a final Planning Board Resolution, final Zoning Board of Appeals D&O I don't think they would approve it subject to Zoning Board of Appeals Variances because one of the options here, as Mr. Reber pointed out, is not doing a Variance rather eliminating the lot and combining it with an adjacent lot. What we should do to do further homework is to see this September 22, 2008 memo; what other Variances might have been identified and how the applicant might have responded to those Variances as identified by the Planning Board.

Mr. Ralph Mastromonaco stated the only way I can do that is by going back to the Planning Board though.

Mr. John Klarl stated we have to look at the number of times before the Planning Board and look at the minutes.

Mr. Ralph Mastromonaco asked what would the next step be then?

Mr. John Klarl responded I think the Board needs a little more homework. Actually, they thought you didn't even have a responsive memo. There would be one from you in the Planning Board file and I think Ken...

Mr. Ken Hoch responded that's all Chris found.

Mr. John Klarl continued maybe you have one yourself but I think the Board is interested in doing a little bit more homework.

Mr. Ralph Mastromonaco stated I can respond to that to this Board and the Planning Board. I can respond to that memo to both Boards.

Mr. John Klarl stated it's a coordinated review we're both trying to look at...

Mr. Ralph Mastromonaco continued and see what happens.

Mr. John Klarl stated obviously, I recall on the Planning Board side the time out a while by the applicant. I don't know if someone lost the zest for the application.

Mr. Ralph Mastromonaco stated I have a current application before the Planning Board so I would have to reactivate that application somehow.

Mr. John Klarl asked when was the last time you were on the Planning Board agenda?

Mr. Ralph Mastromonaco responded that was a while ago.

Mr. David Douglas asked you've been on the agenda since September '08?

Mr. Ralph Mastromonaco responded no that was the last time.

Mr. John Klarl stated what happens is the Planning Board does a review memo, gets a response from the applicant before they schedule the public hearings. I have the Planning Board file here, I can tell you. Maybe what we should do is go to the Planning Board folder, identify how many times the applicant was on their agenda and see what further discussions they had about Variances. I don't think the Planning Board has taken a position opposite **point 4** in this review memo about either getting a Variance or eliminating the lot and providing it with adjacent lots. I think that's the last pronouncement we heard on it from either the Planning Board or the applicant. We have to go read the Planning Board files. I'd be happy to sit down with Ken and Chris Kehoe to see what's transpired the last two years.

Mr. Ralph Mastromonaco stated nothing really transpired because we've been making an application to this Board.

Mr. John Klarl stated I don't think we're looking for something...

Mr. Ralph Mastromonaco stated the next step for me would be to respond to that memo to both Boards.

Mr. John Klarl stated that would be helpful especially before this Board. This Board doesn't look at the other points as juicy but **number 4** they'd certainly like to hear from the applicant.

Mr. Raymond Reber stated I think to recap in terms of why we would adjourn; **item 4** is clear. I don't think there's any debate about – there's an issue there and we have to go one way or the other. I think what we're asking for and since this has been in limbo, apparently since 2008 is that staff interacting with the applicant review the overall plan as being proposed and make certain that there are no other potential Variances that are going to be needed and if so then they have to be defined and have to be reviewed and also then that has to be presented to the Planning Board so that they understand what's involved and what's happening here before we then proceed to evaluate what Variances are needed and whether we want to approve them.

Mr. John Klarl stated I think Mr. Mastromonaco has a good idea, if he takes the September 22, 2008 review memo and responds to both by copy to the Planning Board and the Zoning Board I think that would be...

Mr. Raymond Reber stated that certainly goes in the right direction but I think staff is ultimately the ones between Planning and Code Enforcement to determine are there other potential Variances? Does their plans, site plan and what they're going to end up with comply with the Code as required?

Mr. John Klarl asked why don't we do this, why don't we sit down with the Planning Board file that's been open for a couple of years and maybe have Mr. Mastromonaco respond to the review memo and get more education about what's needed here.

Mr. Ralph Mastromonaco stated just as an aside here, the Town staff did actually work with us on the number of Variances. We had a complete...

Mr. Raymond Reber stated that's fine. If they come back to us next meeting work session and they say they reviewed the plans and everything else would comply and the only issue is this **item 4**, fine, then we know what we're voting on and we can make the decision accordingly.

Mr. Ralph Mastromonaco stated I may, Mr. Klarl, whether or not this issue may come up so let's be prepared for it whether or not the Planning Board can grant a preliminary approval subject to a Variance.

Mr. John Klarl stated they can but I'm saying they do it generally in the easier type of thing where someone is looking for a setback or a buffer and I think they're going to do a coordinated review and act together.

Mr. Ralph Mastromonaco stated I will submit a memo to both Boards for the next meeting.

Mr. John Klarl stated why don't you respond to the September '08 review memo giving it to both Planning Board and Zoning Board and Mr. Hoch will sit down with the Planning Board file with Mr. Kehoe and we'll see what transpired at each Planning Board meeting and see what further items were identified by the Planning Board. There's been a long time out here so we have to go back.

Mr. Raymond Reber stated based on the recommendations of the work to proceed between now and our next meeting I move that we adjourn case **06-10** to the June meeting, seconded with all in favor saying "aye."

B. CASE No. 42-09 **Nick Danisher** for an Area Variance from the requirement for the front yard setbacks for a proposed single family dwelling on the property located at **22 Pierce Street, Cortlandt Manor**. (Adjourned to June at applicant's request.)

Mr. David Douglas asked we got a letter this afternoon on this case Mr. Hoch?

Mr. Ken Hoch responded yes, asking to adjourn it to the June meeting.

Mr. John Klarl stated we have a fairly lengthy letter from Patrick Bell, an engineer with Cronin Engineering but his alternate paragraph says "I kindly request that the public hearing to this case be adjourned to June 16th." He's doing some handling of some issues involving a property with DOTS until then. He wants the adjournment to the June 16th meeting.

Ms. Adrian Hunte stated I'll make a motion that **case #42-09** be adjourned to the June 2010 meeting, seconded with all in favor saying "aye."

C. CASE No. 10-10 John Delaney for a Special Permit for an Accessory Apartment on property located at **41 Forest Ave. Cortlandt Manor.**

Mr. John Klarl stated Mr. Chairman on that matter as we discussed at our April meeting, there was some litigation involving the property and the property owners and we were advised as of our work session on Monday night that the litigation we think is coming to an end but we're not aware of any settlement or any firm and final order by a court so it would be my recommendation with no one here tonight and not knowing what's occurred in the litigation to adjourn this to the June meeting and ask the nominated applicant to bring us up-to-date before that meeting.

Mr. John Mattis stated I move that we adjourn **case 10-10** to the June meeting, seconded with all in favor saying "aye."

Mr. John Klarl asked should we ask Mr. Hoch to write a letter to the applicant to bring us up-to-date before the June meeting?

Mr. David Douglas asked Mr. Hoch would you do that?

Mr. Ken Hoch responded yes.

D. CASE No. 11-10 Curry Properties LLC for Area Variances for the requirement that 25% of the site be landscaped, for the requirement that there be a 50 foot landscape buffer between an HC Zone and a Residential Zone, for the requirement that there be a landscape strip of 25 feet between the interior curb and the street curb.
Cortlandt Manor.

Mr. David Douglas stated I think the idea was we were going to adjourn this further.

Mr. Wai Man Chin stated because we're right now in front of the Planning Board and we're doing a coordinated review. We would still like to adjourn to the...

Mr. Joel Greenberg stated just so you're up-to-date as Wai Man Chin mentioned we are before the Planning Board. We're going to be at the Planning Board meeting which is June 1st. I believe everything is in order so hopefully by your June meeting we'll have a final word from the Planning Board so you can proceed with the Variances.

Mr. Charles Heady asked will June be enough time for you?

Mr. Joel Greenberg responded I put it on for June. If something different happens on June 1st, I'll give you plenty of time to adjourn it.

Mr. Charles Heady stated I make a motion on **case 10-11** to adjourn until June, seconded with all in favor saying "aye."

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RE-OPENED PUBLIC HEARING

A. CASE No. 04-10 Gyrodyne Company of America, Inc. for an Area Variance from the requirement of the total number of parking spaces on the property located at **1985 Crompond Road, Cortlandt Manor.**

Mr. David Douglas stated this is a case that we re-opened at our last meeting.

Mr. Tim Miller stated Mr. Douglas, I sent you a letter dated May 10th. Did you receive that?

Mr. David Douglas responded yes.

Mr. Tim Miller stated I think that that summarizes pretty much what has transpired. The architect had originally prepared a site plan for the medical center that was adding spaces to the parking field. It had **51** more spaces than existed at the present time. There were **136** spaces roughly and we recognized, after running through the Zoning and the calculations, that we had a shortfall of parking based on what the Town requires. We did a parking accumulation study at the site. We compared the Code to some other Codes in Westchester County. We compared it to the Institute of Transportation Engineers of parking demand. We established the peak parking demand at the site based on **100%** utilization of all the offices at the property and the architect prepared a plan that showed **190** spaces. It was our intention to make legal our application to the Planning Board by getting a Variance for those **190** spaces, so we appeared before your Board requesting that and we presented our case and indicated that we were trying to maximize the number of spaces on the site. We had **20** more spaces than what we showed as being the maximum of demand. It looked like a pretty good situation. The Board granted the Variance for **190** then we appeared before the Planning Board, they did site visits, we had a public hearing and the Planning Board decided that they would prefer that **9** of the spaces that are located at the end of the driveway near the intersection with Crompond Road be eliminated from the plan. Their decision to do that was their decision to do that, it's an accurate statement. It was our view that those spaces worked. I think if you go out into any Town, Village, City, you'll find that there are parking spaces within **15** feet of a corner and it's not a problem, nonetheless this is what they required, we altered the plan, they approved the plan for good or for bad, fortunately or unfortunately we're here in front of you in the unusual situation of requesting that you revisit our Variance request from **190** to **179**. We still have more than the peak demand. We still will

have **43** more than exists at the site now. This kind of looks like a no-brainer but maybe it's not, that's just me talking.

Mr. John Klarl stated Mr. Miller, in short, you received the Decision and Order back in January for **190** spaces and you'd like to see that Decision and Order not to have **190** but to have **179** and go home.

Mr. Tim Miller responded it would satisfy our situation I think **100%**.

Mr. John Klarl asked so you want to go from **190** in that Decision and Order to **179**?

Mr. Tim Miller responded correct.

Mr. John Klarl stated just for the record, Mr. Miller's client did receive a Resolution from the Planning Board, I think it was **Resolution #29-10** adopted at the Planning Board meeting on May 4th which gave the applicant a conditional amended site plan approval and so he's completed his rounds with the Planning Board.

Mr. Tim Miller stated and condition **#10** basically states that "the applicant shall obtain the required amended Decision and Order from the Zoning Board of Appeals for the required parking Variance from **266** down to a minimum of **175**." They gave us a little wiggle room although we have now on the plan **179** spaces.

Mr. John Klarl stated but I think the Planning Board actually wanted us to adopt their language. Also, Mr. Vergano worked on that the minimum of language. I think that's what the real request is. I don't have the full Resolution. Ken do you have it? Mr. Miller is absolutely right condition **10** states "the applicant shall obtain the required amended Decision and Order from the Zoning Board of Appeals with a required parking Variance from **266** parking spaces down to a minimum of **175** parking spaces," and I think the Department of Technical Services wanted to use that language to give them some wiggle room in finalizing the Planning Board site plan application.

Mr. Tim Miller stated what it is is that we have a couple of conditions that we still have to satisfy one is an approval of drainage plans for the site. I think Mr. Vergano wants to have a little bit of flexibility there in the event that any further adjustment may need to take place for storm drains, signs, fencing, landscaping, things of that nature. The plan does show **179**, the Planning Board wants a Variance with a minimum of **175**. We would be happy with **175, 176, 177, 178 or 179**.

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

Mr. James Seirmarco stated I make a motion that we close the public hearing, seconded with all in favor saying "aye." I make a motion that we adopt the language suggested by the Planning Board in the spirit of cooperation...

Mr. John Klarl asked we'll adopt the language of condition **10** of the Planning Board Resolution?

Mr. James Seirmarco responded right and hopefully that we'll get as close to **179** as possible, seconded with all in favor saying "aye."

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NEW PUBLIC HEARINGS

A. CASE No. 12-10 **Erica Harris** for an Interpretation that a partially covered porch does not require a Variance, but if one is required, the applicant seeks an Area Variance for a front yard setback at **12 Whittier Ave., Cortlandt Manor.**

Mr. Thomas Leigh presented himself to the Board and stated I'm the architect for the applicant.

Mr. David Douglas asked you're a representative of the applicant?

Mr. Thomas Leigh responded I'm representing the client.

Mr. David Douglas asked can you tell us what the nature of the application is?

Mr. Thomas Leigh responded the house is in an **R-10** zone. It's an oversized lot, however the house is **31** feet back from the property line, the front yard setback is **30** feet. The homeowner wishes to put a front overhang over her front door so she doesn't get wet when she's going in or out the door. We did not intend to apply for a Variance first but to use the exceptions that are in the Code regarding roof overhangs of **2 ½** feet and a front porch of **6** feet which is allowed as it is an open porch. However, the Building Department asked us to apply for a Variance because the front porch is to be constructed out of masonry. Basically, we're looking for a Code Interpretation on the use of the exceptions to build the addition if that's not allowed then we would ask for the Area Variance of a **6** foot setback Variance on a front yard. It is **40** feet to the curb line from the front of the house.

Mr. John Klarl asked so your application's in the alternative? You request one relief and if you don't get that relief you'd like a Variance?

Mr. Thomas Leigh responded correct.

Mr. Wai Man Chin stated I know in some areas eaves are not considered but an overhang or part of requirements on setbacks but the eave that you're proposing is more than an eave, it's like [a firm 13:38] part of the house it's actually going in front of one section of the house by almost **6** feet.

Mr. Thomas Leigh responded the front porch deck is 6 feet but the roof overhang is 2 ½ feet from the 30 foot setback.

Mr. Wai Man Chin stated I understand that but what I'm saying that from what we saw at our meeting it's not following the line of the house. That overhang is sticking beyond the setback requirements. I would not go for that as an Interpretation as part of a roof.

Mr. Thomas Leigh asked if we were granted the Variance we would be allowed to move that front roof to 6 feet?

Mr. Wai Man Chin responded we haven't decided that yet either. We're talking about it and I don't know if I want to decide on that this month. I don't know how some of the other Board members felt about it but there are some questions that we still would like to talk about based on what you asked for and what you're trying to get besides, from an Interpretation to a Variance.

Mr. Thomas Leigh stated I have a photograph of the front yard with a sketch of what the roof overhang would be. I could share it with you.

Mr. Wai Man Chin stated I can kind of see what you're trying to do but go ahead pass it over here I'll show it to the rest of the Board members.

Mr. John Mattis asked you mentioned that you want an overhang over the doorway? It's for the whole porch isn't it?

Mr. Thomas Leigh responded the front porch is to the right side of the house in front of a bedroom. It's faced east and gets a lot of sunlight in the morning and we're looking to shade that bedroom window with part of the roof overhang over that section which then ties into the roof overhang over the front door.

Mr. John Mattis asked so you're extending what you want over the front door over?

Mr. Thomas Leigh responded it's extending over the front door and then tying back to the rest of the house.

Mr. Raymond Reber stated my understanding is that there is in the Code the issue of allowable overhang, as Mr. Chin indicated, and your approach is 'I want to use that allowance and I'm going to go out to 2 feet 6 from where the door is but then because the house has a setback for the rest to the right where you're going to put the porch' you actually gain more than that because you're going to use that same line that came across. My Interpretation, as Mr. Chin indicated, is that's not what the intent of an overhang in terms of structurally how it's put together. I would also have a problem saying that that is consistent with the intent of the Code as it was written. I would agree that that type of construction would require an Area Variance. As far as an Area Variance there is significant precedent that we usually consider favorably some sort of a shelter over the doorway entrance as to how large it is that's to be worked out but that

we consider, but I personally would have great difficulty extending that to the right over the deck area, or whatever. I did go over to the neighborhood and look at the neighborhood and there are two other homes on that street that have basically built a similar type of deck. One is just a pad, there's nothing above it, no railing, nothing and obviously that's acceptable. We know that and you know that. There's another one across the street which has done something similar and they put up a white wooden fence. It looks very attractive and fine. Those are within the Code because there's nothing above them, they just have their normal rooflines and what have you. To that extent, yes you can put the pad there, you can put a fence around it for safety and whatever for architectural purposes but I would have a difficult time with any kind of structure over that particular section because then it becomes a covered porch and we get into that issue again.

Mr. Wai Man Chin stated as Mr. Reber said I would probably have no problem with something coming out in front of the front entrance...

Mr. Thomas Leigh stated just over the door.

Mr. Wai Man Chin stated yes, to protect people from the rain and they want to unlock the door or come out and greet somebody, you need a little protection but coming across the whole entire length that's a little too much I would say in my own personal view based on the Code.

Mr. James Seirmarco stated I tend to agree with Mr. Reber and Mr. Chin. I would have no problem with it over the doorway but extending it to the full length of the house I would have a problem with that.

Mr. Charles Heady stated I also agree with Mr. Chin what he just told you on the whole thing over the whole front of the house. We've given a Variance before just over a front porch to protect them from the weather.

Ms. Adrian Hunte stated I agree as well. I do have a question; it appears from when I visited, that this house sits back a little farther than the other...

Mr. Thomas Leigh responded the front yard setback is **30** but the setback from the face of the house to the curb line is **40** feet.

Mr. Raymond Reber stated I thought the house to the right may have been a little bit further back but the one to the left may be a little bit forward.

Mr. Thomas Leigh stated the fire hydrant is roughly **31** feet from the house.

Mr. Raymond Reber stated that's quite common particularly in the newer streets where there's an additional setback so they can widen the road but we're not allowed to consider that.

Mr. Thomas Leigh asked if I understand the Board correctly you're favorable for just an overhang over the front door not over the porch section?

Mr. David Douglas asked that seems to be the sense of the Board. Are we suggesting then perhaps that, we would adjourn this to next month, if you could come back with modified plans that would reflect that we could consider that next month?

Mr. Thomas Leigh asked would this meeting also address the Area Variance that we want?

Mr. James Seirmarco responded at the next meeting.

Mr. David Douglas stated at the next meeting, right. In other words, if you come back at the next meeting with revised plans that are more along the lines of what you've heard people saying then – nobody has said “yes” definitively but you can get a sense of where people are leaning.

Mr. John Klarl stated it would helpful Mr. Chairman if he gave us the plans before the next work session so we can look them.

Mr. David Douglas stated right, our work session is on the Monday – our next meeting is on June the 16th, our work session would be on the 14th. If you could make sure that we have the plans sufficiently in advance of that.

Mr. John Mattis asked Mr. Chairman, would it make sense for us to vote on the Interpretation tonight and leave open the Variance?

Mr. David Douglas responded yes, we could do that.

Mr. John Mattis stated that would give him more direction.

Mr. David Douglas stated we'll do that in one moment but if you could get the plans some time during the week...

Mr. John Klarl asked do you want to indicate what our intent would be on the Interpretation so we don't bifurcate the application like closing the decision apart. But what I'm saying is we'll give him direction not vote on the whole thing so we have one Decision and Order ultimately which would handle the Interpretation and handle the Variance.

Mr. David Douglas stated why don't we do that.

Mr. Thomas Leigh asked how far out should I plan the roof overhang if I'm just having a roof overhang over the front door?

Mr. Raymond Reber responded the existing pad you have there is what dimensions?

Mr. Thomas Leigh responded the existing pad sticks out roughly 6 feet from the front door.

Mr. Raymond Reber asked and how wide is it?

Mr. Thomas Leigh responded approximately 6 feet. It's roughly square.

Mr. Raymond Reber stated I wouldn't have a problem with 6 x 6.

Mr. Wai Man Chin stated I wouldn't have a problem with that being 6 foot by 6 foot. It gives you a little room just to cover the front area where people come out.

Mr. Thomas Leigh asked if my client wishes to put the front porch on then the Area Variance would be required?

Mr. Raymond Reber responded if they want to put something over it. They can put the pad in like their two neighbors did. That doesn't require a Variance.

Mr. Thomas Leigh stated no I mean over the bedroom section.

Mr. Raymond Reber responded if you want to cover it with anything partial or whatever, yes, you would need a Variance and some of us are indicating that we probably would not be...

Mr. Thomas Leigh asked the foundation is fine?

Mr. Raymond Reber responded yes, I don't think that violates...as I indicated you had two neighbors who did that and you'd be consistent with that. They don't have the overhang that's the difference.

Mr. James Seirmarco asked portable awnings that are put over windows that come up and down, are they permitted?

Mr. Ken Hoch responded they're a structural element, when you bring them out they could be...

Mr. Thomas Leigh stated they telescope out.

Mr. Ken Hoch continued yes they telescope out but once they're out they could be considered violating a setback.

Mr. Wai Man Chin stated I think we should vote on this – the Interpretation we already know what the Interpretation is.

Mr. David Douglas stated I think what Mr. Klarl was suggesting is that we don't actually vote. We just do this as one unified D&O but I think we can give the applicant a sense – on the Interpretation I think what you've heard here is that several members have said they would not interpret on that you don't need the Variance, that you would need a Variance. I think that several people have said – and I share that view as well.

Mr. Thomas Leigh asked if we came back with a set of plans that had the 6 foot extension over the front stoop only and no on the side, could the Board stipulate that as an approval and Mr. Hoch would just...

Mr. David Douglas responded we don't usually do that. What we usually do is we get the revised plans and then we'll see it and then we'll vote on it but you have a sense of what people are saying at this point.

Mr. Wai Man Chin stated we'll give you an Area Variance based on that area then you would apply for a Building Permit and that's it. Until we put it in black and white with a D&O it's not approved.

Mr. Raymond Reber stated and we also like a plan that we're referring to for the files so it's clear as to what was actually approved.

Mr. David Douglas stated if you come back next month with plans that look like what you've been talking about 6 x 6 and not going off to the side I think you can be fairly confident that we would approve it. Anybody else want to be heard on this?

Mr. Wai Man Chin stated I make a motion on **case 12-10** to adjourn to the June meeting, seconded with all in favor saying "aye."

Mr. John Klarl stated and we're going to request that the applicant give us plans before the next work session. How long, Ken, do you want them before the next work session?

Mr. Ken Hoch responded at least a week so I can get them out to the Board.

Mr. John Klarl stated so by June 7th. June 7th give us plans so we can look at them at the work session on the 14th.

B. CASE No. 13-10 Lite Brite Signs on behalf of **FIVE BELOW**, a new tenant at the Cortlandt Town Center, for an Area Variance for a wall sign at **3133 E. Main St., Mohegan Lake.**

Ms. Maria Rotundo presented herself to the Board and stated I'm from Lite Brite Signs.

Mr. Peter O'Mara presented himself to the Board and stated I'm with O'Mara Associates. I'm the architect who designed the façade.

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

Ms. Maria Rotundo stated we're asking for a 5 square foot Variance for the Five Below sign.

Mr. Raymond Reber stated the proposal for Lite Brite Signs is for the Cortlandt Town Plaza particularly building C which -- the store will be located with the Dress Barn, as you're looking at the front, to the left. To the right is Michael's.

Mr. Peter O'Mara stated it's actually, to the left is Sleepy's and to the right is the main entrance to the theater and then Dress Barn is just to the right of that.

Mr. Raymond Reber stated I did look along there. What you're asking for is **65** square feet which is **5** above what's allowed. The reason being is your sign which you pictures of the area and then you've got plants for us. The sign consists of the statement that says "Five Below" with the zero actually condensed down to the equivalent of a degree sign as part of your trademark so it actually reduces that down and doesn't really count as a full letter. You do have a trademark sign on the end. The net result is this sign would be **21** feet, **6** inches long by **3** feet high and when that's calculated out it comes to the dimensions of **65** square feet or **5** feet beyond what's allowed. Looking at the plan that you've shown here architecturally the way you're going to design it, looking at the other fronts along there in the Cortlandt Town Center in the different buildings, to me it certainly is consistent. The **3** foot size letters is typical of what most of the signs there are. Obviously some of the bigger stores: A&P, Home Depot even have larger letters but again that's proportional to the larger frontage because that's the formula that we use in terms of what's allowed. To me, I think this is consistent with the signage that's in the Cortlandt Town Plaza and therefore, since it's only a **5** square foot Variance which represents less than **10%** I would not have any problem approving this Variance.

Mr. James Seirmarco stated Mr. Chairman signs are important to me and if you were to reduce the size of the letters by a little less than **3** inches, instead of **3** feet make them **2** foot **8 1/2** you wouldn't need a Variance at all.

Ms. Maria Rotundo responded correct.

Mr. James Seirmarco stated it's **21** foot long times **3** inches or **2 1/2** inches gives you greater than **5** square feet. I don't see the reason for a Variance if you can just reduce it by just a couple of inches.

Ms. Maria Rotundo responded I understand that but the company predetermines the sizes of the letters. They're not fabbed as the stores open, they're prefabricated and they sit in a warehouse waiting.

Mr. James Seirmarco stated I'm going to be sarcastic and say that's not our problem. That particular statement that you just made has been made by every person who've ever come before us that the sign is made and that's not our problem.

Mr. John Klarl stated they may be prefabbed these signs but pre-approve the signs.

Mr. James Seirmarco stated and we've had Mobil and Exxon and gas stations that say that the sign is already pre-made and that's the way it goes. I can't see why you need the **5** square feet. If you can convince me that there's a hardship here I might go along with it but to reduce it by a couple of inches, the Variance goes away and if you look at the rules for Variances: is there an alternative? **100%** here there's an alternative. Just reduce the letters by a couple of inches and you don't need a Variance.

Mr. Peter O'Mara stated I don't want to call it a hardship but the signs, as Maria stated, they're pre-made to a set size. In order to make a custom size sign it's extremely expensive to do that and it's not feasible. Secondly, I've done a couple of drawings just as a personal exercise to the naked eye, by reducing the sign a few inches one way or the other it's absolutely not even visible to the human.

Mr. James Seirmarco stated you're absolutely right.

Mr. David Douglas stated that's part of his point.

Mr. James Seirmarco stated that's my point.

Mr. Peter O'Mara stated but economically it makes it very difficult.

Mr. James Seirmarco stated thinking it's a **2 foot 9** inches rather than **3** feet, no one's ever going to see the difference and you don't need a Variance.

Mr. Peter O'Mara stated but again the issue is the economics behind it. It makes it extremely expensive and Five Below, like Maria has already said they've already had these signs made. The next size smaller is so small you wouldn't be able to read it from a vehicle. That's the case.

Mr. David Douglas asked you're saying that it is impossible for the company to make a custom made sign?

Mr. James Seirmarco stated with the computers today they print out signs -- this is a trivial thing to me.

Mr. John Mattis stated I support what Mr. Reber said. We're looking at a storefront and a couple of stores over is Michael's. Michael's has **4** feet high letters and we gave them a Variance of over **50%** to go from **80** square feet to **128** and why are we wasting our time for **5** square feet that is less than **10%** and it's not even perceptible?

Mr. David Douglas stated I'll tell you one reason. One of the reasons that we granted the Variance to Michael's was I just checked my notes and I even voted in favor of it because I usually vote opposed to these sign Variances is because it was smaller than what was previously there so it was an improvement. We can continue to make improvements here. I don't see the

rationale for granting a Variance for these **5** feet when it's just a matter – I'm just repeating what Mr. Seirmarco said. I'm fully in accord with what Mr. Seirmarco said.

Mr. John Mattis stated and I don't see the rationale for granting it. It's **8** and a **1/3%**. Every Variance we've given in these, we've given up to a **100%** and to just arbitrarily say this one can't get an **8%** Variance, it doesn't make sense.

Mr. David Douglas stated I don't think it's arbitrary and I also think that many of those votes, as you know, were incorrect and I voted against them.

Mr. John Mattis stated I don't know what "incorrect" means. A majority votes and we approve or we disapprove.

Mr. David Douglas stated "incorrect" means that in my mind that was the wrong decision that's why I voted opposed to it.

Mr. Wai Man Chin stated I'm going to have to agree with Mr. Reber also because the sign Variances that in the Code will allow to give up to **100%**. This is only, like Mr. Mattis said, it's only **8 1/3%** and I don't see it being any less than – the letter height is **3** foot. Most of the big stores over there are **5** foot or **4** foot and they have the space to put the sign up there and they're only asking for **5** square feet. Again, I don't think that's a significant Variance that they're asking for on this particular application.

Mr. David Douglas stated we have this debate every time there's a sign. Mr. Chin basically says the same thing that he said, Mr. Reber says what he says – we have this debate every single time. We could continue debating it but I think we know what we're going to say.

Ms. Adrian Hunte stated I agree with Mr. Reber.

Mr. David Douglas continue right, and Ms. Hunte is going to agree with Mr. Reber, Mr. Seirmarco and I will probably disagree and the vote will be **5** to **2** because that's the way it always is.

Mr. James Seirmarco stated I actually think the sign Ordinance was written...

Mr. Wai Man Chin stated you have to speak your mind.

Mr. James Seirmarco stated I think the sign Ordinance was written to make the signs **100%**. There's always a reason to vary that but the goal is not to make all the signs bigger, to me. The goal is to make them all conform. Now we tend to not do that but it bothers me.

Mr. Raymond Reber stated just to counter Mr. Seirmarco's logic here and I spent a lot of time with another responsibility I had for a while back on the Town with working with the businesses on sign Ordinances. The sign Ordinance is written to apply Town-wide. Most places in the

Town, there is a concern about signs being too big because most businesses are on regular streets, regular thoroughfares and various neighborhoods and that's what set the sign Ordinance but the Town Board was recognizing the fact that there are situations like the Cortlandt Town Center which is unique as a shopping plaza off the main streets, not next to residential or anything else and it was for reasons like the Cortlandt Town Center type project that they gave us the freedom of **100%** to give a Variance. There's a logic to all this and for us to say we can't give **8%** when that's the whole reason why they did that so that a place like the Cortlandt Town Center could deviate from a Code that was setup to apply to every single street on the Town, that's the logic of it. Now, whether we want to vote for it or not that's up to each individual but that is the background of why we have **100%** Variance on that Code.

Mr. David Douglas stated you know what I think we should do next application, I think for fun that I should give Mr. Reber's take on things and Mr. Reber should give mine because we all know what we're going to say and we all know the rationale and we know why we disagree and I think it might be fun to just switch. I can almost say word-for-word give the rationale that I just heard and I assume Mr. Reber could word-for-word say what I would say or what Mr. Seirmarco would say.

Mr. James Seirmarco stated we're taking light of this but it's a serious business. Most municipalities try to limit signs in general. There used to be the [the flying37:03] over at McDonald's and every municipality makes them illegal and I've seen McDonald's signs **2** foot by **2** foot, people still go to McDonald's. Most municipalities try to minimize signs because they're ugly, in general, and that's where I'm coming from. I think the Code was written to make them as small as possible but with not creating unsafe situations.

Mr. John Mattis stated one of the other reasons why we've given Variances much more than **8%**, we've given up to **100%** in the Town Center, as Mr. Reber said, it's not on the road and it's not visible from the road. However, that building sits very far back. You could probably tell us how many feet, I don't know, quite a bit from the main thoroughfare within that Town Center and we want to make sure, for safety reasons, that people driving along there can look to the right or look to the left and make out where the signs and where the stores are and that's important.

Mr. James Seirmarco stated I'll say my standard rebuttal to that. No one sees any signs to the Town Center until they go on the property. They don't see them from Route 6.

Mr. John Mattis stated I was saying that, in the access road, you're still very far away on the access road. You're in the Town Center, you're not on the main road, but that access road sits a couple **100** yards, **75** yards out from the building. It's quite a distance.

Mr. Charles Heady stated I agree with Mr. Mattis and I think there was another sign we gave Michael's and we gave the bake shop there, it's almost about the same size that they're asking for now. There's not much of a difference of **5** square feet. I would tend to go along with it myself.

Mr. Peter O'Mara stated I'm always accused of talking too much but if it was easy, if it was not an issue to make the sign that **60** square feet, we would do that, we wouldn't be here. The problem is the sign is made at a set size and economically it makes the sign quadruple in price to make it at a different custom size. I know that you don't care. It's our problem not yours.

Mr. James Seirmarco stated I care. I'm being flippant but I care, I really do.

Mr. Wai Man Chin stated one more thing, also the proportion on signs, the length and the height, they've got to be in proportion. You just can't cut **3 ½** inches off the top and make it...

Mr. James Seirmarco stated no it would have to be scaled down, proportionately.

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

Mr. Raymond Reber stated the economics shouldn't be something that's sways us one way or another but just to read a statement from our Town attorney that we received some time back to clarify things for us, he says "the benefit to the applicant, if the Variance is granted, as weighted against the detriment to the health, safety and welfare to any of the neighborhood or community by such grant" and he goes through the **5** stipulations: is the "1) undesirable change produced in the character of the neighborhood or a detriment to the nearby properties?" I doubt that because the other properties have bigger signs. "2) Whether the benefit sought by the applicant can be achieved by some other method." Yes, you can go and get a custom made sign but the lead in sentence here was to benefit the applicant. So, in other words, if we continue with the others "is the Area Variance substantial?" Well, we dictated that's not true, "whether the proposed Variance will have an adverse affect on the impact of the physical and environmental conditions in the neighborhood." I doubt that **8%** Variance is going to do that. And the last "whether the alleged difficulty was self-created." Yes, it was self-created so now we're left with evaluating the only harm this does is only to the applicant. The question then is yes it does make sense to say is there an economic impact here and are we being arbitrary in saying "make a custom sign?" To me, it's being arbitrary.

Mr. David Douglas stated I don't think we're being arbitrary at all and the harm to the community is the visual pollution from large signs and that's a real harm. In any event, does anybody have anything to say? Anybody in the audience want to be heard?

Mr. Raymond Reber stated I make a motion on **case 13-10** to close the public hearing, seconded with all in favor saying "aye."

Mr. Raymond Reber stated I make a motion on **case 13-10** Lite Brite Signs to grant an Area Variance for a sign from a required **60** square feet to **65** square feet, this is type II SEQRA no further compliance required, seconded.

Mr. David Douglas asked all in favor? Aye. Any opposed? Opposed. Can you poll the Board please?

Mr. Ken Hoch stated Mr. Reber; yes, Mr. Mattis; yes, Ms. Hunte; yes, Mr. Seirmarco; no, Chairman Douglas; no, Mr. Chin; yes, Mr. Heady; yes, **5 to 2** it carries.

Mr. Charles Heady stated before you put the sign up you have to call Code Enforcement to check the size of it. We've had problems in the past.

Mr. James Seirmarco stated people have said we're going to make a **65** square foot sign and then when they move and take the sign down it's **75**.

Mr. John Klarl stated and I think, Mr. Hoch will correct me, I think our signage language says on the sign permit that you must allow us to inspect it before you install otherwise you have to take it down? We inspect it and then install it.

Ms. Maria Rotundo responded no problem.

Mr. Peter O'Mara responded we're aware of that. We've done that.

Mr. John Mattis asked is this in front of the Planning Board?

Mr. Peter O'Mara responded this already went in front of the Planning Board. Is that what your question was?

Mr. John Mattis asked and the sign was approved by them, correct?

Mr. Peter O'Mara responded correct.

Mr. Wai Man Chin asked and also the architectural – ARC?

Mr. Peter O'Mara responded yes.

Mr. John Klarl stated on the Planning Board side the CAAC (Cortlandt Architectural Advisory Council) looked at the sign right?

Mr. Peter O'Mara responded I believe so.

Mr. John Klarl stated yes they did.

Mr. Wai Man Chin stated yes they did and they approved it also.

Mr. Peter O'Mara stated I have no response for that.

Mr. John Klarl stated you gave a proposed sign to Mr. Kehoe and he gave it to the Architecture Advisory Council. They look at the color and size.

Ms. Maria Rotundo responded yes.

**C. CASE No. 14-10 Michael Parthemore for an Area Variance for a 3rd
freestanding sign for CRISTINA'S restaurant at 15 Baltic Place, Croton-on-Hudson.**

Ms. Adrian Hunte stated I recuse myself.

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

Mr. Michael Parthemore presented himself to the Board and stated I'm from Cristina's restaurant. I'm here – I got a violation, actually Amberlands Realty got a violation for a sign on the property. Apparently they're only allowed two signs and mine is the 3rd.

Mr. John Klarl asked when was the violation given to the landlord? Was it June '08?

Mr. Michael Parthemore responded it was given to the landlord on June 3rd, 2008.

Mr. John Klarl asked as you discussed with the Board at the work session on Monday?

Mr. Michael Parthemore responded yes. It says basically the description "you have installed the Cristina's sign without Planning Board approval in a sign permit." Since this violation I believe I do have Planning Board approval subject to Zoning Board approval. For me, the reason I took on this battle is this sign is really only important to me because I'm the business owner. Visibility is a real problem with my restaurant. A lot of people have a hard time finding us. I purchased the restaurant. The sign was an existing sign. I have documentation that the sign was there as far back as 2002. The restaurant has changed hands several times since then but right after I purchased the restaurant we got the building Code violation.

Mr. John Klarl stated once again the building Code violation went to your landlord. Your landlord then gave the violation to you?

Mr. Michael Parthemore responded yes.

Mr. John Klarl asked you weren't named yourself?

Mr. Michael Parthemore responded no but it does directly pertain to my sign and no other sign on the property. It says "you have installed a Cristina's sign." So, they're being pretty specific that it's sort of like my problem. I think the landlord basically feels that it's my sign. He could just say "Mike, take it down." We've had no complaints about the sign from any tenants. I have a letter from my landlord stating that he's okay with the sign. We have no complaints from any neighbors. Like I said, it's been there. I provided you with some pictures of the sign. I don't think it's an ugly sign but it's just been there for a while. As far as all the other signs that are on

the property that may be in question I'm just trying to get through my little piece of the puzzle. I just request that you can grant me this Variance so I can just – this has been hanging over my head for two years now and I'd just like to move on with it.

Mr. John Klarl asked as of tonight, you have never received a violation in your name from the Town to Cristina's?

Mr. Michael Parthemore responded no sir.

Mr. John Klarl asked the only violation's you've seen have gone to your landlord?

Mr. Michael Parthemore responded yes.

Mr. James Seirmarco stated Mr. Chairman this sign is the exact same sign that Fortuna's had previously. The same dimensions. The same sign just the letters were changed so it's not any difference dimensionally. The bigger story on this particular thing is that there are a number of signs, 5 signs on the property. There is not supposed to be 5 freestanding signs. It seems like the Cristina sign is one of those 5 and they're being singled out. We would like to work on the whole project, the whole sign layouts there and hopefully the result will be that you'll be not have to change your sign but we would look at the whole site in general. We're probably going to write a letter to the landlord and have him come in and we'll talk about all the signs, not just yours. We do understand that that's a very important part of your business because of the location of the restaurant entrance is on the other side of the building so if anybody would need a sign, if you would rank the need, you probably are the top rank person who needs a sign where it is to let people know where your restaurant is. We do want to look at all the freestanding signs and not just single you out. We're going to reserve this decision so we can write a letter to your landlord and have him come in and we can discuss all the signs and possibly rearrange some of them or remove some of them if we can. I don't know whether we're going to need a Variance for his sign or not.

Mr. David Douglas stated we're not going to be reserving it. We're going to adjourn so there's an opportunity – I think we talked about having the landlord meet with the staff.

Mr. John Klarl stated I think Mr. Hoch started with that motion already since Monday.

Mr. James Seirmarco stated I said reserved but I meant to say we'll just adjourn this. It's been open since 2008 so there's no rush here it appears. We would like to once and for all correct this properly for everybody and hopefully you'll have some patience with us and we'll get the whole site squared away.

Mr. Raymond Reber stated one of the things that I think should be considered when the meeting is held with the landlord is this is an issue of freestanding signs but there's obviously, on these properties, permitted to display signs on the walls. Most of our cases are signs on buildings and

there may be a situation where they may have not fully utilized that capability on that piece of property and I think that has to be considered.

Mr. James Seirmarco stated right.

Mr. Raymond Reber stated rather than us giving Variances for all this stuff maybe the option is the sign on a building and they replace it. I'm not saying specifically to Cristina's, I'm just saying as you look at the whole site that has to be factored into this to minimize any need for Variances.

Mr. James Seirmarco stated you're absolutely right. The rear directory sign could certainly be put on part of the building and the other directional signs – we shouldn't generate here.

Mr. Wai Man Chin stated you even have a Wachovia Bank sign on the lawn yet the Wachovia Bank sign on the building is about **3** times larger than the freestanding sign.

Mr. James Seirmarco stated we might ask them to remove that one and they probably wouldn't mind.

Mr. Michael Parthemore stated what just concerned me is that it just seemed to be one little issue

Mr. James Seirmarco stated I agree, we don't want to single you out because that's not fair.

Mr. Michael Parthemore continued and it seems like it's going to be made a lot more complicated.

Mr. David Douglas stated your sign is up there at the moment.

Mr. Michael Parthemore response I know it is.

Mr. David Douglas stated what I'm saying is that by us having set up this meeting with the landlord and adjourning it so we can consider it further, you're not being harmed by the fact that it's being adjourned because your sign is up. If your sign had been taken down I can understand you saying "wait, push this forward as fast as possible. I'm being prejudiced." But, you're not really being harmed or prejudiced by the fact that it's getting adjourned?

Mr. James Seirmarco stated and there's nobody on this Board that would want to take the sign down.

Mr. David Douglas stated we're not insisting on whether you take the sign down while we consider this.

Mr. Charles Heady asked Mr. Chairman, you think it would be necessary to have a site inspection on this or not?

Mr. James Seirmarco stated we have pictures of all the signs.

Mr. Charles Heady asked the signs to see what they're all about?

Mr. Michael Parthemore stated I've got plenty of Cristina's sign for you.

Mr. John Klarl stated I think Mr. Hoch, since our work session on Monday, we make a motion...

Mr. David Douglas asked Mr. Hoch is there a meeting set up with the landlord yet?

Mr. Ken Hoch responded no, not yet. I discussed this with my colleague in Planning, Chris Kehoe. I actually am compiling a sign inventory. I've taken pictures of every sign there. The dimensions are different because tenants have changed and this is further complicated because there's an adopted Planning Board master sign plan.

Mr. John Klarl asked from the early '90s?

Mr. Ken Hoch responded yes.

Mr. John Mattis stated that was under a different sign Code.

Mr. Ken Hoch responded right and then we have the Variance that granted the two additional freestanding signs. So, Chris and I have to get together, figure out what's there, what was supposed to be there and call Rich Baltic and have him come in and sit down and say...

Mr. John Mattis stated this really has to go to the landlord because even if you would say "I'm going to make my sign smaller to come in compliance with what I'm allowed" you're allowed up to **24** square feet I believe, there's still **5** signs and we only need **3** so the landlord has to be involved in this somehow. Either we're going to allow **5** or get it down to **3** and it looks like there's many different ways of getting it down to **3**.

Mr. James Seirmarco stated one of which is not to remove yours.

Mr. Michael Parthemore stated it's a tough situation there. It really is.

Mr. James Seirmarco stated and we'd like to fix it once correctly and then it will be over.

Mr. David Douglas stated and I think another we had talked about was informing the Planning Board of the situation because they're having adopted the master sign plan so they're aware of the situation. They're also aware of the...

Mr. John Klarl stated Mr. Hoch sets up the meeting with Mr. Kehoe, Mr. Vergano and the landlord then after that meeting report to us on the Planning Board as to where they're going.

Mr. James Seirmarco stated have patience with us.

Mr. Michael Parthemore responded this would be out of my hands.

Mr. James Seirmarco stated we'll try to protect...

Mr. John Klarl stated for the moment, you're on the side lines.

Mr. Wai Man Chin stated the sign will stay until we decide what's going on.

Mr. David Douglas asked how long should we adjourn this?

Mr. John Klarl responded why don't we start for next month.

Mr. David Douglas asked you think we can do it for next month?

Mr. James Seirmarco stated I make a motion we adjourn this case until the June meeting to give the staff the chance to contact the landlord and make some arrangements to discuss the number of signs in total, seconded with all in favor saying "aye."

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ADJOURNMENT

Mr. David Douglas stated I move that we adjourn the meeting, seconded with all in favor saying "aye."

**NEXT MEETING DATE:
June 16, 2010**