

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 17th, 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. (absent)
James Seirmarco
John Mattis
Adrian C. Hunte (absent)
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 APRIL 19, 2017

Mr. David Douglas stated first item on the agenda is the adoption of the minutes of April.

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

Mr. David Douglas stated the April minutes are adopted.

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ADJOURNED PUBLIC HEARINGS:

- A. **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.**

Mr. John Turnquist stated hi, good evening. My name's John Turnquist. I'm here for the project: Sherwood Road. Can you hear me?

Mr. David Douglas responded we can.

Mr. John Turnquist stated he had previously been here before the board because he had an illegal addition on the residence; the side of the property and the rear deck. He submitted a plan. What I'm proposing to do is cut back the area that I have circled here in red, cutting back the addition to meet the code setback lines. I do need a rear yard Variance on the deck which I am cutting back three feet as well but I am cutting back five feet on the side of the residence so that it meets the zoning as well as fire codes. That's pretty much it. We're going to file a plan to legalize the project.

Mr. James Seirmarco stated Mr. Chairman, after many weeks of discussing this I think the plan now reflects the changes that needed to be made. I know the applicant tried to buy property and tried a number of things to mitigate the problem but this is the latest outcome and I don't have any problem with this.

Mr. David Douglas asked anybody else have any comments?

Mr. John Mattis stated just to set the record straight. The actual zoning code requires 7 ½ foot setback, it's the state building code that requires 5 feet, unless the wall is fire rated. I just want to get that on the record so ... You had said the zoning and I just wanted to make sure it was reflected correctly in the record.

Mr. John Turnquist stated we are going to meet the fire code, yes and yes thank you.

Mr. Raymond Reber stated also clarifying the issue with the deck. Basically, we can give some Variance but we can't give the Variance that allows a structure onto somebody else's property so that's why the deck would have to be cut back to at least get it back onto the property.

Mr. John Turnquist stated we agree to that, yes.

Mr. James Seirmarco asked any other comments from the audience? If not I make a motion to close the public hearing on case #2017-01.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion to grant an Area Variance for the side yard setback from a required 7.5 feet down to 5.2 feet for the house and rear deck and an Area Variance for a rear setback from a required 20 feet down to 0 feet for an existing deck. This is a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. John Turnquist responded great thank you.

Mr. David Douglas stated you'll speak to Mr. Hoch about whatever paperwork is necessary. You don't have to speak to him right now but ...

Mr. Wai Man Chin stated a couple of days.

Mr. David Douglas stated take care. Good night.

- B. 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 stated Mr. Hoch got an email this afternoon. They've requested an adjournment.

Mr. Ken Hoch stated yes, correct.

Mr. John Mattis stated I'll make a motion to adjourn until next month.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case #2017-06 is adjourned until next month.

- C. 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. David Douglas stated we got a letter that this has been withdrawn. Is that correct Mr. Hoch?

Mr. Ken Hoch responded yes Mr. Chairman, based on the Town attorney's memo.

Mr. David Douglas stated based on the Town attorney's memo, that case is withdrawn so we'll move onto the next one.

- D. 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.**

Mr. David Douglas stated we're going to adjourn this case. I'll ask Mr. Klarl to explain the situation.

Mr. John Klarl stated we have an application before our board. There's also an application with the Planning Board and looking at an Area Variance at this level but there's also been some litigation involving a question here so beyond that there's not much more to discuss.

Mr. David Douglas stated isn't the Planning Board taking ... there's an application with the Planning Board and we're going to hold off until ...

Mr. John Klarl stated I don't have the date in front of me but there's a date with the Planning Board yes. Ken do you know the ...

Mr. David Douglas stated I think it's in front of the Planning Board in June and then we're going to get it in July. We're going to adjourn it until July. My understanding is that they're going to ... this has to do with the SEQRA process. That's what I thought maybe would be worth explaining.

Mr. John Klarl stated at the work session on Monday night we talked about the Planning Board having it in June and we would adjourn it to July for us for compliance for SEQRA. You're absolutely right Mr. Chairman, that was the discussion at the work session. We were talking about a July adjourn date specifically for SEQRA. We talked about the issues that were raised in the case but it really it's going to move forward come June and come July.

Mr. David Douglas stated I just want to further explain to people who are not here. Last month, one of the issues that was discussed had to do with the SEQRA law and the issue of lead agency. That was discussed among council and staff and that's basically what's happening now.

Mr. John Klarl stated and the applicant's ...

Mr. David Douglas continued and the applicant's part of that discussion.

Mr. John Klarl stated but that discussion, you're absolutely right, we're looking at a July date given the sequence of events we think are going to take place.

Mr. David Douglas stated for those people who are interested in that application, as I know there's a lot of people that are, next time we're going to be in front of us will be our July meeting. I don't know the date of our July meeting off the top of my head.

Mr. Ken Hoch stated the 19th.

Mr. David Douglas stated July 19th would be the next time it's in front of us.

Mr. John Mattis stated I make that motion.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case #2016-24 is adjourned to July.

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NEW PUBLIC HEARINGS:

- A. **CASE NO. 2017-11** **New York SMSA Limited Partnership d/b/a Verizon Wireless** for a Special Permit Recertification for an existing Wireless Telecommunications Facility consisting of antennas and related base equipment on property located at **51 Scenic Drive, Croton-on-Hudson, NY.**

Mr. Michael Sheridan stated good evening Chairman, members of the board. My name is Michael Sheridan. I'm an attorney with Snyder & Snyder LLP, the attorneys for New York SMSA Limited Partnership d/b/a Verizon Wireless. I'm here tonight in connection with the requested recertification for Verizon Wireless' Facility at 51 Scenic Drive. As I came into the meeting this evening, Mr. Hoch handed me a memo from the engineers which confirmed Verizon Wireless' submission that the site has not changed since the last recertification except for routine maintenance that was permitted.

Mr. David Douglas stated Mr. Reber.

Mr. Raymond Reber stated this is obviously as stated is an existing cell phone tower. They do have to be renewed periodically just to make sure that they're still meeting the criteria. As you just heard, the Engineering Department has reviewed the facility and has notified us that in fact they are in compliance and maintaining the facility properly. On that basis, I see no reason why we shouldn't grant the Special Permit.

Mr. Wai Man Chin stated no problem.

Mr. Raymond Reber asked any comments from board members or from the audience? If not I would move that we close case 2011-11.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Raymond Reber stated I then make a motion on case #2011-11 for the applicant New York SMSA Limited Partnership for Verizon Wireless for the existing cell tower at 51 Scenic Drive, Croton-on-Hudson that a Special Permit for recertification of the Telecommunication Facility with related base equipment be approved. This is a SEQRA type II, no further compliance required.

Mr. Wai Man Chin stated it's actually 2017-11.

Mr. Raymond Reber stated it's a typo, you're right. I was just reading it.

Seconded with all in favor saying "aye."

Mr. Michael Sheridan asked and that renewal is for an additional five-year term?

Mr. John Mattis asked I have a question; this was initially '04, then '09, then 2014. This is only three years. We normally go five.

Mr. Michael Sheridan stated correct, but what happens is there's a ... In the code it requires that you apply up to a year in advance and this board deals with things very quickly and judiciously and gets them done so when you apply up to a year in advance, you get a ... It does throw off the timing a little bit.

Mr. David Douglas stated we'll try not to be so efficient.

Mr. Michael Sheridan stated efficient, that's the word I was looking for.

Mr. David Douglas stated I move to adjourn for two years the next application.

**B. CASE NO. 2017-12 New York SMSA Limited Partnership
d/b/a Verizon Wireless for a Special Permit Recertification for an existing
Wireless Telecommunications Facility consisting of antennas and related
base equipment on property located at 299 9th St., Con Edison Tower
(River Tower East), Verplanck, NY.**

Mr. Michael Sheridan stated again Chairman thank you, members of the board my name is Michael Sheridan with Snyder & Snyder. I'm here on behalf of New York SMSA Limited Partnership d/b/a Verizon Wireless in connection with its request for a recertification of the Special Permit for [inaudible 15:41] facility at the Tower in Verplanck. Again, I was handed an engineering memo indicating that, as stated in Verizon's application that the facility remains the same as it was the last time it was recertified but for some permitted maintenance and work at the site.

Mr. David Douglas stated Mr. Seirmarco, this is your case.

Mr. James Seirmarco stated yes. I think the same thing holds true here. We have a memo from Engineering. As Mr. Reber said on the previous applicant and we're in the same situation here. I would make a motion that we grant the recertification.

Seconded.

Mr. John Mattis stated first you've got to close the public hearing.

Mr. James Seirmarco stated I make a motion to close the public hearing. Any questions on this? I make a motion we close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion to grant the Special Use Permit required for the height of the new ... I'm reading the wrong one.

Seconded with all in favor saying "aye."

Mr. David Douglas stated it's granted.

Mr. Michael Sheridan stated thank you.

Mr. David Douglas stated thank you very much.

Mr. Wai Man Chin asked you're due for how many years now?

C. CASE NO. 2017-13 Santucci Construction Corp for an Area Variance for the height of a new house on property located at 17 Travis Lane, Montrose, NY.

Mr. David Douglas stated an you made it just in time. I saw you walking in. You never thought that we could get through whatever it is, seven or eight cases in 15 minutes.

Mr. Domic Santucci stated good evening everyone. I guess you know why we're here with the height restriction so is there any questions that ...

Mr. Wai Man Chin asked your name is Dominic Santucci?

Mr. Dominic Santucci responded Dominic.

Mr. John Mattis asked can you give us a brief description just so it's on the record because all these are taped.

Mr. Dominic Santucci responded as we submitted the letter we talked about the fact that as we dug the foundation ... The property is a very tough terrain. It's all rock and I bought this property years and years ago, subdivided it and my daughter wanted to live there so we went ahead and processed it. When we started we knew we were going to hit rock but I didn't think I was going to hit this volume of rock. We got down, took out quite a bit with a hammer and the drilling and then we got to the point where it was just no way we were going to get any more without blasting. My house is 30 feet away and I have all the other neighbors. It's really dangerous and costly so we ended up raising the house two feet and we had called the architect to do the grades for the adjustment and it did work with the fact if we took it and kept in on our property. Those two points just throw the whole thing out of whack.

Ms. Santucci stated two points on the left. You can see the photos ...

Mr. David Douglas stated you have to talk into the microphone.

Mr. John Mattis stated you have to get four points and there's supposed to be, within 20 feet, but that goes onto the other person's property where the drop off is.

Ms. Santucci stated yes it's on the other person's property and it's down about 12 to 15 feet so it's skewed the calculation and without those points sometimes in mathematical calculations you will eliminate the ends of the spectrum and there was really only one and those were the lower ones. When we took those out it absolutely works. We're under 34 feet in some circumstances and if you can take a look at the photos, the foundation is not really exposed. The house sits nice and level so there's not any ugly foundation exposed. It's not sitting up.

Mr. Dominic Santucci stated it's just a bad situation because of the drop and of the 10 foot setbacks that this particular calculation doesn't work for us anyway.

Mr. John Mattis stated and it's really a two foot which is 5.7%, 5.8%.

Mr. Dominic Santucci stated I think it's probably less than two feet.

Ms. Santucci stated it really is less. When we recalculated it, we very helpful, the Building Department was very helpful. That gentleman up there and his colleague. We added other corners, other points with their permission so it really when we recalculated it, it was really under two feet, 1.8 or something like that.

Mr. John Mattis stated certainly not anything that's visible to anybody.

Mr. Dominic Santucci responded no.

Ms. Santucci stated no. Like I said, if you look at the pictures, the house, we're very proud of it but besides that it's nice and level. There aren't any great amount of stairs and there's any great amount of foundation sticking up.

Mr. Dominic Santucci stated I guess the way the calculation it was from point eight 20 feet down and then [mumbles 21:33]

Ms. Santucci stated we did a few things.

Mr. Dominic Santucci stated within the 20 feet is the critical.

Mr. Wai Man Chin stated actually within your own property was okay but once you went outside your property line that's what the problem was.

Mr. Dominic Santucci stated because we have that wall there and there's no foundation shown but as soon as you go down ...

Ms. Santucci stated you know each case is unique and when we think about building we always think if it's going to be in a little square lot and it's all going to be level and that's not ...

Mr. Dominic Santucci stated listen, I've been building for years. You guys all know me here. I've been here several times. You build a house and you try to project and you try to keep it as close as you can but you know, it's not a pencil that you move around there. Usually rocks and boulders that you're working with and grade. It's tough to get it perfect. It's tough to get it perfect.

Mr. Wai Man Chin stated you do have some circumstances on why it's that way. I really don't have a problem with this project ...

Mr. John Mattis stated no, this is certainly reasonable.

Mr. Wai Man Chin asked anybody in the audience want to speak on this? I'm going to make a motion on case 2017 ...

Mr. Raymond Reber stated I concur that there's no problem here but I think it's worth noting that, as they demonstrate in this one photo of this wall with the drop-off that's causing this problem. That's man-made. If that wall wasn't built, they hadn't carved that out, that drain would have been higher and so this problem was created because the neighbor cut down the soil and had to put a retaining wall so I definitely agree that this is ...

Mr. Wai Man Chin stated because of the neighbor it drops drastically that's why.

Mr. Raymond Reber stated it skews the whole purpose of this calculation. I concur that it's not a problem.

Mr. Wai Man Chin stated I'm going to make a motion on case 2017-13 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Mr. Wai Man Chin stated I'm going to make a motion on case 2017-13 for Area Variance for the height of the new house from 35 feet to 37.7 feet. This is a type II under SEQRA, no further compliance is required.

Seconded.

Mr. John Mattis asked did you say 37.7 or point 07?

Mr. Wai Man Chin responded point 07. Yes.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Dominic Santucci stated thank you very much.

Ms. Santucci stated thank you.

D. **CASE NO. 2017-14** **Patrick McCooey** for an Area Variance for an accessory structure, an in-ground pool, in the front yard, and an Area Variance for the total square footage of accessory structures on property located at **296 Watch Hill Rd., Cortlandt Manor, NY.**

Mr. Jason McBride stated good evening Chairman and board members. My name is Jason McBride. I'm with Anthony and Sylvan Pools. I'm here with the home owner Patrick and Ron Deleo. We're here for the Area Variance for the accessory structure, an in-ground pool in the front yard as well as the Area Variance for the total square footage of accessory structures on the property. As you can see in the pictures, we have no other location to put the pool except for in the front yard that is within the setbacks and on top of that, due to the garage that they have as well we are exceeding, minimally, the square footage of accessory structures as well.

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

Mr. John Mattis stated a number of things we looked at. Is there another place to put it? The only other place there's a septic so you really can't put it there. It's probably the only real

location that works on that property. It is in the front yard but it sits 30 feet above the road. So nobody's going to see it. If you look at the plain of the house it's actually a side yard but because it's closer to the road it's considered a front yard. The Variance is required a side yard much less than those in the front yard. I do have one question though: we have applications that come in here for houses that are less than the size of this whole accessory structure's square footage. Why does it have to be so big?

Mr. Jason McBride asked I'm sorry?

Mr. John Mattis responded 1366 square feet.

Mr. Ron Deleo stated that's the total of all the accessories?

Mr. John Mattis responded yes.

Mr. Jason McBride stated that's including a garage that is there.

Mr. Ron Deleo stated [inaudible] garage on the side of the house.

Mr. John Mattis stated attached garage doesn't count in the calculations.

Mr. Ron Deleo stated detached.

Mr. John Mattis stated detached.

Mr. Jason McBride stated the proposed on the plan is 690 square feet.

Mr. John Mattis stated okay, that wasn't clear from the sheet.

Mr. Jason McBride stated my apologies.

Mr. John Mattis stated it's okay. If we take those all into consideration, the fact that it's so high nobody will see it and I'm sure you're going to put shrubbery or something in front of it that it'll be no negative impact on the community, nobody will even see it as I said two or three times so I think it's fine.

Mr. Patrick McCooey stated two of the neighbors are in favor of the pool. [inaudible] both sides of the house. They have no problem with the location. We didn't send out letters.

Mr. David Douglas asked anybody have any comments in the audience? I think we wanted to close and reserve this.

Mr. John Mattis stated yes, there are some other issues. Ken could you highlight those issues?

Mr. Ken Hoch responded the Department of Technical Services, the Town Engineer wants to review this to come up with the requirements that should go into a steep slope's permit, a tree permit, a replanting plan and we'd like to have all those requirements done before the D&O is issued so they can be incorporated in the D&O.

Mr. Jason McBride stated okay. Would that be at the next meeting?

Mr. Ken Hoch responded it should be at the next meeting and by the time they're done with that, this should be ready for a permit provided you get the positive decision.

Mr. Jason McBride asked do you have the date of the next meeting?

Mr. Ken Hoch responded it's June 21.

Mr. John Mattis stated June 21st. So what we'll do is we'll close the public hearing tonight and we'll reserve our decision. That gives us 62 days but we should be able to do it next month and all the other paperwork should be ready so everything will be done concurrently.

Mr. Jason McBride stated perfect. Thank you.

Mr. John Mattis stated so I move on case #2017-14 that we close the public hearing and reserve our decision.

Seconded with all in favor saying "aye."

Mr. David Douglas stated so case #2017-14 is adjourned until next month. Oh no, it's not adjourned it's closed and reserved and we hope to have a decision by next month.

Mr. Jason McBride stated very good. Thank you.

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Mr. David Douglas stated before we make a motion I saw two people who walked in. Are you here for a case?

[Inaudible 28:39]

Mr. David Douglas stated that case got adjourned to July. I'll give you the very short explanation. The very short explanation because I gave a more long winded one before and so did Mr. Klarl is that; you may recall, I don't know if you were here last month or not, there was a discussion about the SEQRA requirements and lead agency issues. Basically, the matter is now going to be in front of the Planning Board for its June meeting where they'll take whatever

actions they take and then it'll be in front of us again in July because of this trying to balance the requirements of SEQRA.

Ms. stated thank you.

Mr. David Douglas stated sorry you had to come out here. Was that a good 50 word description of what you said in 6000 words?

Ms. stated thanks.

Mr. stated [inaudible 29:33].

Mr. Wai Man Chin stated we wish.

Mr. David Douglas stated you missed us being complimented. One of the applicants here talked about how efficient we are but there was nobody here to hear it.

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ADJOURNMENT

Mr. John Mattis stated I'll make a motion that we go into executive session to discuss a legal matter.

Mr. John Klarl stated discuss with attorney advice ... on pending litigation.

Mr. John Mattis stated advice of our attorney on pending litigation.

Seconded with all in favor saying "aye."

Mr. David Douglas stated we're going to go in executive session and we will not be taking any votes afterwards and will not be opening the hearing afterwards. Thank you.

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**NEXT MEETING DATE:
WEDNESDAY, JUNE 21, 2017**