

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, August 19, 2009*. The meeting was called to order, and began with the Pledge of Allegiance.

John Mattis, Chairman presided and other members of the Board were in attendance as follows:

Charles P. Heady, Jr.  
James Seirmarco  
David S. Douglas  
Adrian C. Hunte  
Raymond Reber

Also Present

Wai Man Chin, Vice Chairman  
James Flandreau, Clerk of the Zoning Board  
John J. Klarl, Deputy Town attorney

**ADOPTION OF MEETING MINUTES for 7/15/09**

Mr. John Mattis stated we'll have the adoption of the meeting minutes for July 15<sup>th</sup>, seconded with all in favor saying "aye."

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**CLOSED AND RESERVED DECISIONS ADJOURNED TO NOVEMBER 2009**

Mr. John Mattis stated for information we have closed and reserved decisions adjourned to November 2009 they are respectfully the following:

- 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.

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## **CLOSED AND RESERVED DECISION**

- A. CASE No. 23-07**                      **Congregation Yeshiva Ohr Hameir** for an Interpretation/reversal of Code Enforcement Officer's determination that the dormitory housing its students is a pre-existing, non-conforming use and that a Special Use Permit is or may be required for the Yeshiva's operation or expansion on the property located at **141 Furnace Woods Road, Cortlandt.**

Mr. John Mattis stated we have a closed and reserved decision, the Planning Board has been active on that recently. I'll turn it over to our attorney for his comments.

Mr. John Klarl stated as far as the Congregation Yeshiva Ohr Hameir application they first had a public hearing before the Planning Board in July. They had their second public in August and their third public hearing is coming up in September. Therefore, given the pace of the Planning Board application we talked about at our Monday night work session that maybe we should adjourn this matter to October '09 and I think we may have a Planning Board decision that month.

Mr. John Mattis asked can we have a motion to adjourn this to October? So moved, seconded with all in favor saying "aye." That's adjourned until October.

- B. 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.**

Mr. John Mattis stated I'll turn that over to our attorney for comments.

Mr. John Klarl stated Mr. Chairman maybe perhaps we should do a second call on this because I see the applicant and his representative haven't arrived tonight.

Mr. John Mattis stated we'll hold that until later.

*Case was kept for last.*

Mr. John Mattis stated I really don't like to do this case without the people here and these are good people but this is the second time now. They got here at 8:30 pm one meeting after we had adjourned. It's 7:40 pm the meetings begin at 7:00 pm. The meeting started at 7:00 pm. They had plenty of time to be here. For the record we can have our attorney discuss what the draft Decision and Order would be.

Mr. John Klarl stated if you recall we had a public hearing at the last meeting which was July 15<sup>th</sup> and we closed and we said "put this on a closed and reserved status." I've drafted a draft

Decision and Order that all the Board members have and reviewed on Monday night and it's a two-page Decision and Order so I don't want to go through it necessarily but it's in front of you. Essentially, it says that "the Town Zoning Ordinance's table Permitted Uses part I allows for a three to four family dwelling as a permitted use in the **HC-9A** Zoning district and pursuant to no one it can be contained within a structure also used for commercial purposes or as a principal use." Then, again, our "Zoning Ordinance table of Dimensional Regulations part II from the **HC-9A** district says that a mixed-use building, that's the one proposed here, where three and four unit dwellings are limited to no more than two bedrooms per unit requires a minimum lot area of 7,500 square feet per dwelling unit." In this case the applicant's professional, an architect, proposed merging the lots so that the merged lots would consist of 46,990 square feet and when you divide that by 7,500 square feet the mathematical calculation is 6.26 dwelling units result and of course we round that down to 6 dwelling units. Right now in the **HC-9A** district the applicant is permitted to have four dwelling units with two bedrooms in each unit for eight bedrooms but he's proposing instead six dwelling units of one bedroom each for a total of six bedrooms. So, the Board at the July meeting reviewed the layout of two buildings versus one building and the Board looked favorably on his proposed layout of one building because that would preserve land. In addition, the Board commented several times on the record that they thought this was a clean and efficient design and development of the applicant's three properties with less impacts with one building versus two buildings. Therefore, on the draft Decision and Order we are granting the applicant the request for a Variance and dwelling unit count in his proposed mixed-use building from an allowed four dwelling units up to a proposed six dwelling units subject to three conditions: 1) that the applicant's proposed building will be retail space on the first floor, and no more than six one bedroom units on the second floor. 2) The applicant shall apply for and obtain a site development plan approval from the Town Planning Board for the applicant's proposed mixed-use building. 3) The applicant shall merge the three properties which are the subject of the Variance and which is shown on the survey dated February of '95 and updated July of 2007 by Baxter Land Surveying following their site development plan approved by the Planning Board and prior to their obtaining a building permit. Of course, the merger method that they would pursue would be subject to the review and approval of the Director of the Department of Technical Services and the Town Law Department. We've talked about having merged lots to accomplish what he wants to do. We're not going to make the applicant do that at this time. He's going to pursue his Planning Board application. If he gets the Planning Board approval and before he gets a building permit he would have to pursue it. We indicate in the final paragraph our draft D&O that this is type II application under SEQRA, however SEQRA determination that has to be made in the application will be made at the time of site development plan approval by the Planning Board under this Board's coordinator review with the Planning Board. It's my suggestion, Mr. Chairman, that we make a motion to keep this matter on a closed/reserved status, that we not formally adopt the Decision and Order tonight and instead adjourn it to at least to the October meeting and then if we need a further extension we'll do so by mutual consent with the applicant.

Mr. John Mattis stated we're on the clock that September the 62 days runs out.

Mr. John Klarl responded we would get something in writing with him this week to extend it to

the October meeting.

Mr. John Mattis stated we'll do that subject to getting his approval that we can go beyond September.

Mr. John Klarl continued obviously the applicant would want to consent to a favorable decision. But, the applicant we thought would be here tonight is sent on the record as we always do it. Since he's not here tonight we obviously have time until September for the decision but we'll get a letter from him indicating that he gives us until October. He's going to be proceeding before the Planning Board for a couple of months.

Mr. Raymond Reber stated I compliment our attorney for defining exactly our position on this. He states it well and as he recommends because of the actions before the Planning Board I move that we adjourn to the October meeting on the basis that we will receive a letter from the applicant permitting us an extension of the time limit on the closed and reserved decision.

Mr. John Klarl stated and if for some crazy reason they didn't consent to October this would be adjourned to the September meeting.

Seconded, with all in favor saying "aye."

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### **ADJOURNED PUBLIC HEARINGS TO SEPTEMBER 2009**

Mr. John Mattis read the following:

- A. 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.**
  
- B. 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 8<sup>th</sup> Street, Verplanck.**

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### **ADJOURNED PUBLIC HEARINGS**

- A. CASE No. 22-09**                      **Rhonda Salters and Victor Lyons** for an Area Variance from the rear yard setback requirement for a proposed open deck on the property located at **31 Sassinoro Boulevard, Cortlandt Manor.**

Mrs. Adrian Hunte stated this was adjourned so that you'd have an opportunity to meet with your architect.

Ms. Rhonda Salters responded we went back to the drawing board. We scaled it down. I hope you guys got copies. We're hoping that could be sufficient. We took out the whole octagon portion and we switched the stairs around.

Mr. John Mattis stated they go down sideways rather than going this way.

Mrs. Adrian Hunte stated the Variance is now down substantially from what it was before, in my opinion. Does anyone else have comments?

Mr. Raymond Reber stated I still have a problem with it because the bulk of the deck is still there and it's still 13 feet wide in its narrowest section it's 18 feet in the deeper section. The Variance is still over seven feet on required 24. I understand this situation that this is a nature preserve in the back but still I question on something that's not critical or pre-existing and since it is self-created that it's necessary to go to that extreme but I'd be willing to make somewhat of a concession for a minor Variance and that, in my mind, be take off another three feet or so which cuts this down into less than four which gets you down to less than 20%. Basically, it would mean that you would take that last section where the stairs are going down and move that over to where the second set of stairs are and then turn the stairs back out because our Zoning Variance does allow for further encroachment of the staircase from a structure.

Ms. Rhonda Salters stated the stairs were completely moved to the other side.

Mr. Raymond Reber stated that's my opinion and so I would not go for this. I still think it's a little on the excessive side.

Mr. James Flandreau stated both the deck and the stairs have the same exception. Right now the Variance for 24 feet includes that exception in the Code. If by moving the stairs you would still have that dimensional Variance of 7.2 feet.

Mr. Raymond Reber stated I'd be willing to grant a Variance for half a staircase if that's all in came down to.

Mr. Wai Man Chin stated I made the suggestion about reducing the deck, turning it, and taking parts of it away and reducing it down to the 12 or 13 feet originally from last month's meeting. I see that the applicant has done something very close to what I had indicated. It dropped the 66% down to almost 30% which is significant as far as I'm concerned and I would not have a problem of granting this Variance the way it is shown.

Mr. David Douglas stated I continue to have the same concerns I expressed last month.

Mr. James Seirmarco stated I think the Variance is substantially reduced and I think the special situation this is that it is boarded on the open space and that's the reason it doesn't set a precedent because this is open space behind there, to me, and I would have no problem with this.

Mr. Charles Heady stated either way I had no problem and also James Seirmarco mentioned I'll go along with that also.

Mr. John Mattis stated I'm somewhat concerned also. It's still a 30% Variance which is quite large. However, the extenuating circumstance is the fact that that is preserved land and they will not have a neighbor back there. It will be woodlands and stuff and for that reason I would support this also.

Mr. Raymond Reber stated I find it interesting I can understand the argument about the extenuating circumstances but I guess the argument I've heard that "well it was a substantial reduction from what they asked for." Is that telling the public that they should come in here and ask for totally ridiculous Variances so that when they compromise on it we grant them?

Mr. John Mattis responded I think our record proves otherwise.

Mrs. Adrian Hunte stated I don't think that's the case here.

Mr. John Mattis asked anyone in the audience would like to speak?

Mrs. Adrian Hunte stated I make a motion that we close the public hearing, seconded with all in favor saying "aye." On Zoning Board of Appeals **case no. 22-09** for an Area Variance from rear yard setback requirement for an open deck at 31 Sassinoro Boulevard, Cortlandt Manor I move that we grant the Variance for the rear yard setback requirement for a rear open deck from the required 24 feet down to 16.88 feet on the above-referenced property. This is a SEQRA type II action no further compliance required. I see no undesirable change that will be produced in the character of the neighborhood. You don't seem to have too many alternatives and at this point because we do have the open space in the back that it would not impact the physical or the environment in any way more than deminimus. With that said, I make the motion that we grant the Variance, seconded with all in favor saying "aye," opposed "aye."

Mr. John Mattis stated could you poll the Board please?

Mr. James Flandreau stated Ray Reber; opposed, Adrian Hunte; in favor, David Douglas; opposed, James Seirmarco; yes, John Mattis; yes, Wai Man Chin; yes, Charles Heady; yes.

Mr. John Mattis stated the motion is approved on a 5 to 2 vote so your Variance is granted.

Mr. James Flandreau stated you can give me a call in the office and I'll explain the next step tomorrow.

**B. CASE No. 23-09**                      **Matt Mello** for an Area Variance from the front yard setback requirement for a proposed porch on the property located at **25 School Street, Cortlandt Manor.**

Mr. James Flandreau stated I received a letter from Mr. Mello asking for an adjournment until September.

Mr. Charles Heady stated on **case 23-09** I make a motion to adjourn it until September.

Mr. Wai Man Chin stated there was a good reason. His father had passed away.

Mr. John Klarl stated out of state.

Seconded with all in favor saying “aye.”

Mr. John Mattis stated that’s adjourned until September.

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**NEW PUBLIC HEARINGS**

**A. CASE No. 25-09**                      **Christopher Sanchez** for an Area Variance from the requirement that no accessory structure (above ground pool) is permitted to be installed in the front yard on the property located at **15 Cross Lane, Cortlandt Manor.**

Mrs. Adrian Hunte stated we have your application here to your request for a Variance to allow a swimming pool in the front yard.

Mr. Christopher Sanchez responded actually I’m on a corner lot so they consider my side property my front yard also. It’s actually on the side of my house not in front of it.

Mrs. Adrian Hunte stated I looked at the property and also looked at the neighborhood and I didn’t see anybody else with a swimming pool in basically the front yard. You did say that you have a fence around the property but the fence is not a high fence and it’s also open so that you can see the pool.

Mr. Christopher Sanchez responded you can’t have over a four-foot fence in front.

Mrs. Adrian Hunte stated that’s all the more reason why. There’s a problem here. The pool would be literally right on the corner in the front of the property and as you know under the Code those structures are not permitted in the front of the property hence your request for a Variance.

I do have problem with it. I think it's very small there and I know you don't have too many other options but there's a rock ledge or something on the other side.

Mr. Christopher Sanchez responded the back yard is hill and the other side of the house where I do have flat land is my septic system. I gave a copy of the plans where the septic system goes.

Mr. David Douglas stated I visited the property as well. I understand that you probably don't have many options but there are some properties because of the way they are located and their septic that it just doesn't seem that you can have a pool. What you're proposing is essentially to put a pool right off the side of the road and you may not have any other choices but I don't think that's appropriate given what the Code requires and the neighborhood.

Mr. Christopher Sanchez responded there's one other house in my neighborhood, it's a corner lot and they have the pool on the side of their house just like I'm asking.

Mr. John Mattis stated I'm looking at the aerial that we have, I don't know Mr. Reber you counted them. How many pools are there?

Mr. Raymond Reber responded the area that we have shows Cross Lane, Emery Hill Road, Edgewood Road and the cul-de-sacs on the end of Emery Hill Road. There's a total of 43 homes displayed only 10 of which have pools and I don't see any pool here that's anywhere but in the back yard well out of the way.

Mr. Wai Man Chin stated neither can I.

Mr. John Mattis asked can you tell us what street that is on?

*Mr. Christopher Sanchez pointed out for the Board on the map where this property was located.*

Mr. John Mattis stated it's on Edgewood on the far right of the map. It doesn't show the pool or anything. You can see on the right hand side there's a little street. Do you know the name of that side street?

Mr. Christopher Sanchez responded Cross Street.

Mr. John Klarl asked is the pool outside the picture that we have?

Mr. John Mattis responded it was probably put on after this – this is one of these aerial views that are updated every so many years.

Mr. James Flandreau stated this was about three or four years ago.

Mr. John Mattis stated all I can say is we didn't grant any Variance for that and if it's what you say it is, it is in the front yard. If somebody reports them. We're not the Zoning police but if

somebody reports them, they're going to have to come in for a Variance too and I doubt they get it. Without exception, every other one is in the back yard. That one is not there with the permission of the Town.

Mr. Christopher Sanchez stated I would love to put it in the back yard I just don't have the room to put it because of my septic system.

Mr. John Mattis responded I understand. The problem is by buy a piece of property you don't have a right to a pool. You have a right to use the property based on the Zoning laws and going up Cross Lane you would see it. But, you'd be going right by and it's in the front of Emery Hill Road. Even though that's the side of your house it's the front for anybody that goes on that road.

Mr. John Klarl stated and for the record Mr. Sanchez why can't you place it in your rear yard?

Mr. Christopher Sanchez responded because of a hill and my septic system. With all the copies – I gave a plan of my septic system it's in the back and then runs down the other side of my house or else I would have put it there because that area is flat and out of the way. I would love to put it there.

Mr. John Mattis asked don't you have an above-ground pool there now?

Mr. Christopher Sanchez responded I have 12-foot one of those little stick-up pools. One of those.

Mr. Raymond Reber stated I empathize with the applicant but life is life and there's certain lots that you just can't do certain things with. It's unfortunate sometimes due to either corner lots have different rules than on-street lots and some lots because of the shape or because of terrain limit what a person can do. There's no guarantee that every home owner's entitled to be able to put a pool in or a three-car, or four-car garage or even a two-car garage or expand his home. When you buy it that's the only thing that you're guaranteed anything beyond that is something you have to consider when you buy the parcel. Like I said this is a self-created issue. It's not a standard requirement of residential homes in the area. We would be totally violating the Code as it's written so we really don't have a justification to do so.

Mr. John Mattis asked any other comments? Anyone in the audience would like to speak? Do you have any last things you'd like to say?

Mr. Christopher Sanchez responded I was told that I didn't need a permit. I went down to the Town to check to see if I needed a permit. They told me it shouldn't be a problem and now it seems there's a big problem with this.

Mr. John Mattis stated the Town doesn't speak for the Zoning Board. They shouldn't mislead you that way.

Mr. Christopher Sanchez responded they even told me to fill out a permit request to make it easier that I went through the steps. I was like “why would I do that if I didn’t need a permit?”

Mr. James Flandreau stated we do that because that’s how we have to track your application to the Zoning Board. We actually have to give a letter of denial to you so we need an application from you then you get your letter of denial then you would send the application to the Zoning Board. Those are the steps that are required. That’s what you had to do.

Mr. Christopher Sanchez stated because they said you didn’t need a permit to put up an above-ground pool but they had me do that anyway you just explained to me why.

Mr. Wai Man Chin stated you have some options you could withdraw this case or we could vote on it.

Mr. Christopher Sanchez responded you’ve pretty much said.

Mr. John Klarl stated given that you can just withdraw the case.

Mr. Wai Man Chin stated you can just withdraw the case.

Mr. Christopher Sanchez asked what’s the difference?

Mr. John Mattis responded just procedural.

Mr. Christopher Sanchez stated whether you vote on it or not it’s already.

Mr. James Seirmarco stated if for some reason or other you got creative and was able to create an area in the back yard that you leveled off with some blocks of steps.

Mr. Christopher Sanchez stated I actually looked into that and it would cost me over \$50,000 to make an area.

Mr. James Seirmarco stated that’s why we asked the question whether you want to consider some other options. Obviously that’s not a good one but we like to give the applicant much chance because once we vote and close it’s a done deal so if you want to think about it for a month or whatever, or investigate some other placement.

Mr. Wai Man Chin stated so just withdraw the case and that’s it.

Mr. Christopher Sanchez responded I’ll withdraw the case.

Mr. Charles Heady stated he can adjourn it.

Mr. John Mattis stated that case is withdrawn.

**B. CASE No. 26-09**                      **Steve Erenberg** for an Area Variance from the front yard requirement to legalize an addition and an Area Variance from the front yard requirement to legalize the eave overhang of the addition on the property located at **23 Furnace Brook Drive, Cortlandt.**

Mr. John Mattis asked can you explain the reason that you're here and what the Variance is that you're requesting?

Mr. Steve Erenberg responded I had built a bump-out on the window of the bedroom without a permit. Shame on me. That was about five years ago and I had no idea that I would have violated a Variance. It's over 10 inches maybe I used better materials than I should have, I don't know but I went over the line. It's supposed to be 50-foot and I'm 40 something.

Mr. John Mattis stated and you also built out some other areas and built a shed or a garage. No building permits, nothing. You were not reassessed? You did not pay higher taxes?

Mr. Steve Erenberg responded it's all pretty recent and I what I did is they didn't find me. I decided to make it right and I came to the Board myself and I applied and we had an architect come in and I had electricians check it and plumbers check it and I just wanted to make it right.

Mr. John Mattis asked is there a reason why you didn't file for a building permits at the time?

Mr. Steve Erenberg responded I'm a designer. I paint, I sculpt and this was just part of my DNA. I had an idea and I built it. It's the wrong thing but as you get older you realize you've got to do it right. I decided whatever it takes I'll make it right.

Mr. John Mattis asked are you contemplating on selling your house now?

Mr. Steve Erenberg responded not at all. I'm going to live in this house. I bought the house when I was 28 years old and we're going to be there for a while.

Mr. Raymond Reber stated obviously as you can gather we always get concerned when people do things without going through procedures and getting building permits. There's always three concerns: 1) by doing it you create situations like you have now where you need Variances which could get sticky in terms of getting it granted or not. 2) As our Chairman indicated people do this to avoid paying their share of taxes by hiding the fact that they've got more living space. 3) Safety issue. The Town wants to make sure that when anybody does anything with a home that they do it properly and that there's not going to be an electrical glitch that burns the house down or something of that nature. These are why we do get a little concerned however that's not our prerogative as a Zoning Board. Our prerogative is very limited and it's limited to a Variance that would be required and ignoring all the other issues in this situation you are required a 50-foot setback on the front property and as you indicated you have a bay window type structure

that you've put in there and it only encroaches 9 ½ inches which is less than one foot on 50 which normally we consider de minimus and would pretty much be allowed. The other issue is the overhang which is quite an extensive overhang. Here the requirement is 47 feet 6 inches because they allow you 2 ½ feet standard overhang from the setback because yours is a little larger you'll only be 45 feet 5 inches so the Variance is two feet. Again, not a major Variance. Considering strictly on the application of a Variance if you had normally come to us and asked for this I would not have a problem because it's almost de minimus and so on that basis I would have to say we'd grant the Variance.

Mr. David Douglas stated I'm not sure I agree with Mr. Reber. These situations I find very disturbing because you've basically what you did wittingly or unwittingly puts the Board in a very different position because if you didn't do this and you came to the Board ahead of time and sought a Variance then it would be all fresh, it wouldn't be built already and then we could consider it on merits of whether or not you should get a Variance in the first place. Now we're facing a situation where you've already built it. It's already there and I find that disturbing because granting Variances in that situation sends a message to at least some people in the Town that "hey, I can get away with this. I can not get a permit just build it and if I eventually get caught then it's already built and it's really hard for a bunch of individuals." We're home owners and citizens and we understand how difficult it is to be in a situation and be told that you have to rip out part of what you built. That bothers me. That really bothers me. Whether you knew or not, I find it difficult to believe that you would not know that you needed a building permit. I may be wrong but I find it difficult to believe.

Mr. Steve Erenberg responded I didn't say that I didn't know. I was lazy. I didn't do the right thing. As I said I'm not looking to stand here and be punished. I'm looking to do the right thing. I wasn't found out. I came to the Board and I came to get a permit and I wanted to make things right. I'm just trying to do the right thing.

Mr. John Mattis stated after not doing the right thing.

Mr. Steve Erenberg responded yes. I'm trying to make it right.

Mr. John Mattis stated you're unfair to the other tax payers in this Town who come in, apply for their permits and pay their taxes when they get reassessed which you didn't do.

Mr. Steve Erenberg responded if I have to be penalized retroactively.

Mr. John Mattis stated they can't do that.

Mr. David Douglas stated the other aspect is that now we've got a Variance and I feel I need to look at it as though you've not built it at all and given that I don't think that would have voted for a Variance if you had come in the first place. In the neighborhood, I don't see any other houses that are close to the road that – most of the houses, if not all of them appear to be set back to the property setbacks.

Mr. Steve Erenberg stated you had granted a Variance before. I had come to the Board before and I have a Variance on the garage on the front and on the side which you had granted me and actually this Variance is less than the one on the garage but it comes closer to the road.

Mr. David Douglas stated I wasn't on the Board at that time I wouldn't have voted for that.

Mr. John Mattis stated we have the record for this property in 1983, Kathleen Millarow? 1972 William and Gene Warren. Those were the Variances that were granted.

Mr. David Douglas asked when were you granted a Variance?

Ms. Erenberg stated 20 years ago, maybe a little bit more than 20 years ago.

Mr. John Mattis asked was Kathleen Millarow the owner before you?

Ms. Erenberg Responded the Warren's were the owners before us.

Mr. Steve Erenberg stated we've had the house since the '70s.

Ms. Responded we're in the house 32 years to be exact.

Mr. John Mattis stated maybe this is an error.

Mr. James Seirmarco stated there's an '83 two-car garage permit.

Mr. John Klarl stated because Millarow's says Deer Haunt Drive is the address of the property.

Mr. John Mattis stated that's an error then.

Mr. David Douglas stated I am not swayed by the fact that there was – I would not be swayed for the need for a Variance if you had come to us clean. Given that and I think that's the standard that I need to use I would not be in favor of granting the Variance now.

Mr. Steve Erenberg stated whatever you decide to vote on we'll take care of it.

Mr. John Mattis stated for a nine inch Variance it's very small however had you come before us we would have found a way to work around it so there wouldn't have been a Variance. When I look at Variances, I look at Variances that are basically functional and I look very unfavorably on bay windows and things like that, bump outs and windows because the Town Code doesn't say 50 feet except for bay windows. It says 50 feet. If somebody wants or needs more living space or something like that I generally look favorably on this. I never look favorably on a bay window or anything like that. I would have said cut it down nine inches or something make it a little smaller and we wouldn't have to grant you a Variance and you could do it.

Mr. Steve Erenberg responded it's not really a bay window. It's an extension that's four foot, so the bed could push in. It was a tiny bedroom. I bumped out a three foot by – I don't know the dimension exactly by 15 foot.

Mr. John Mattis asked but you lived there in that bedroom for all those years without bumping it out?

Mr. Steve Erenberg responded correct.

Mr. John Mattis asked any other comments?

Mr. Wai Man Chin stated during the work session I thought the Board wanted a site visit before – I might want to go there and look at it myself to try my voting on this.

Mr. John Mattis stated I think that's a good idea.

Mr. Wai Man Chin stated I think we should all take a look at it together.

Mr. Steve Erenberg stated I've been on the block for so long and almost everyone thinks of the house as a plus on the block. I've always kept the house nice, in fact I've made the house sort of a Frank Lloyd Wright architecture that's why the bit of the overhang is a little more than you would normally see on a house and because of that at least six people on the block have come to me and I don't charge them to do designs. I don't put a stamp on there or anything but I do sketches for them for the house before they have an extension done. I've done that as a favor for people on the block said they see me as a sort of a plus on the block.

Mr. John Mattis asked do you have you had any correspondence with the Lake Owners or the Home Owner's Association regarding your property?

Mr. Steve Erenberg responded yes that we posted a sign on the front and it's been posted for...

Mr. John Mattis asked how about regarding the what you call a shed which they consider a garage?

Mr. Steve Erenberg responded nobody has had any comments on it.

Mr. John Mattis stated I got a phone call about it that you have created parking there when it's against the Home Owner's Association and they wrote you a letter.

Mr. Steve Erenberg responded no there was gravel down in that area before we moved in. There's always been gravel there. I just put fresh gravel down again. We don't use it as a garage, it's a workshop.

Mr. John Mattis stated I just got a phone call about it and wanted to set the record straight about if there's anything with the Home Owner's or not. I think we should do a site inspection.

Mr. Charles Heady stated you said you had people comment on your place how nice you keep it. I understand that. But the thing of it is what you've done is you've created a self-created hardship and you cause yourself more trouble and the Board here trying to straighten it out for you. If I had my way I would have you take that shed down but it can't be I understand that.

Mr. Wai Man Chin stated like I said I think the site visit on Saturday before which is September 12<sup>th</sup>.

Mr. John Mattis reiterated that would be September 12<sup>th</sup>, our next meeting is the 16<sup>th</sup> that's a Saturday.

Mr. Steve Erenberg stated we'll be out of the Country. We'll be back on the 13<sup>th</sup>.

Mr. John Mattis stated actually it's on the outside. We don't have to go into the house or anything. If you grant us permission to go on your lawn and walk back there.

Mr. Steve Erenberg responded yes.

Mr. John Mattis asked so we want to do that the 12<sup>th</sup> at 10:00 am?

Mr. Wai Man Chin responded yes.

Mr. John Mattis asked any other comments? Anyone in the audience?

Mr. Raymond Reber stated I make a motion that we adjourn to the September meeting and schedule a site visit for September 12<sup>th</sup> at 10:00 am, seconded with all in favor saying "aye."

Mr. John Mattis stated so we'll have a site inspection and then we'll reconvene on September 16<sup>th</sup> which is the third Wednesday next month.

**C. CASE No. 27-09**                      **Brie Gallagher** for an Interpretation/challenge of Steep Slope Permit No. 20090271 on the property owner by Kyler Cragolin on the property located at **222 Mt. Airy Road West, Croton on Hudson.**

Mr. James Flandreau stated I received an e-mail from her attorney Daniel Adams today asking for an adjournment to September 16<sup>th</sup>.

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

*See above for case 18-09*

Mr. John Mattis asked do we have any other business? Do I have a motion to adjourn, so moved, seconded with all in favor saying “aye.” The meeting’s adjourned.

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**NEXT MEETING DATE:**

**September 16, 2009**