

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, December 15<sup>th</sup>, 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 Nov. 17, 2010**

Mr. David Douglas stated is the adoption of the minutes for November 17<sup>th</sup>.

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

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**ADOPTION OF 2011 MEETING CALENDAR**

Mr. David Douglas stated second item on the agenda is adoption of the 2011 calendar for the Zoning Board with the various deadlines and meeting dates, the work sessions, the application dates.

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

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**PUBLIC HEARINGS ADJOURNED TO FEB., 2011 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 8<sup>th</sup> Street, Verplanck.**

Mr. David Douglas stated we're waiting for Town Board action on it. That's **case no. 11-09** King Marine. That'll be on for February.

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**PUBLIC HEARINGS ADJOURNED TO JAN., 2011**

**A. 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. David Douglas stated the second case, Post Road Holding is **case no. 18-09** which is a public hearing which is currently adjourned until January. I think at our work session the applicant would like us to adjourn that further to February. Is that correct?

Mr. Raymond Reber stated I'll make a motion on **case 18-09** to adjourn to the February meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case no. 18-09 is adjourned until February.

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**CLOSE AND RESERVED DECISION ADJOURNED TO FEB., 2011 FOR TOWN BOARD ACTION**

**A. 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 this has been adjourned until February.

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**CLOSE AND RESERVED DECISION**

**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. John Klarl stated on this application, Mr. Mastromonaco represents the applicant and he had 2 applications; one was before the Planning Board, one was before the Zoning Board. On the

Zoning Board application, as we know, we last saw this on our November agenda. On our November agenda we closed and reserved awaiting a Planning Board Resolution. Subsequent to our November 17<sup>th</sup> meeting, Mr. Mastromonaco appeared once again before the Planning Board, I think it was December 7<sup>th</sup>, and we discussed the status with the Zoning Board and the Planning Board, based upon that report by myself and the applicant's engineer, the Planning Board closed and reserved decision on their application. Both Boards have closed the public hearing and now it's time for us to entertain a Decision and Order and for the Planning Board to entertain its Resolution.

Mr. Raymond Reber stated my question is to Mr. Hoch. We have, following the work session on Monday, a request for an update on the map and the specific Variances required. We now have that in hand and my question to Mr. Hoch as you reviewed these Variances now and reconfirm that that's the complete set.

Mr. Ken Hoch stated there was a very slight change to some of the percentages or the square footage because there was that one adjustment of that subdivision line to get rid of the 5 foot bump out. Everything else has been reviewed.

Mr. Raymond Reber stated what we finally have obtained is a 3 lot subdivision whereby the bank lot will be an independent. The A&P lot will be an independent lot and then the remaining office complex and treatment plant will be the third lot which is in agreement with what we had asked for. With that, I would ask on **case no. 06-10** to close the public hearing.

Mr. John Klarl stated we did.

Mr. Raymond Reber stated **case 06-10**, Nida Associates, to approve a 3 lot subdivision which will result in the following Variances: side yard setbacks on lot 1, the bank lot, from a required 30 feet down to 1 foot for the drive-through canopy; on lot 2, the A&P lot, from a required 30 feet down to 7.9 feet for the loading dock; lot 3, the office and treatment plant, from a required 30 feet down to 8.6 feet. A rear yard setback will be required on the lot 3 office and treatment plant from a required 30 feet down to 27.5 feet. The maximum building coverage for lot 2, the A&P, from a required 20 is up to 28.5%. The lot 3, office and treatment plant, from a required 20% up to 23%. Minimum landscape coverage lot 1, the bank, from a required 30% down to 25.9%. Lot 2, the A&P, from a required 30% down to 14.8%. The buffer strip abutting a residential district for lot 2 at the A&P from a required 50 feet down to 7.96 feet. The buffer strip abutting street line on lot 1, the bank, from a required 25 feet down to 5 feet; lot 2 the A&P from a required 25 feet down to 3 feet and on lot 3, office and treatment plant, from a required 25 feet down to 12 feet. Note is made that this is all existing. There is no expansion or development involved in granting these Variances. This is a type II SEQRA no further compliance required.

Seconded with all in favor saying "aye."

Mr. John Klarl stated Mr. Chairman, on thing for Mr. Mastromonaco, obviously the next step is

the Planning Board is going to be doing the Resolution for you and in that Resolution, obviously, there'll be a number of cross easements required for pedestrian and vehicular and utility services. The Planning Board will be working with you as to the need for those cross easements.

Mr. Mastromonaco stated thank you, I appreciate that. Happy Holidays and see you next year.

**B. CASE No. 23-10**                      **Jennifer Cohen** for an Interpretation that the applicant's requested home occupation is a permitted use, but if not, applicant requests a Home Occupation Special Permit on property located at **212 Colabaugh Pond Rd., Croton-on-Hudson, NY 10520**

Mr. David Douglas stated this was a case, it was closed and reserved and we discussed further at our work session.

Mr. Charles Heady stated it's a permitted use according to the Town Code and you have **4** people coming to the house.

Mr. Wai Man Chin stated I agree. I think the Town Code says it's a permitted use.

Mr. David Douglas stated I don't know if everybody agrees but I think most of us agree, maybe we all do agree that it falls within the Code's **section 307** as a permitted use. We already closed and reserved...

Mr. John Klarl stated this is on for discussion for tonight since we closed at the November meeting.

Mr. Wai Man Chin stated I make a motion that it's a permitted use and have a D&O indicating that.

Second.

Mr. John Klarl stated on the question, I think at the work session on Monday work session we talked about **4** were permitted and there was some discussion indicating there was a Decision and Order that we need a special permit for **6**...

Mr. Wai Man Chin stated I don't think we should go for a special permit right now. I think it's just a permitted use.

Mr. Charles Heady stated I agree with Wai.

Mr. David Douglas stated we had discussed it. I think the majority of the people meeting at this point to just holding that it's a permitted use and leaving it at that.

Mr. John Klarl asked in our Decision and Order should we indicate that it's a permitted use with the idea that there's no overnight people?

Mr. Raymond Reber responded if you look at the application it says "an Interpretation is asked for as to whether the applicant's request the home occupation is permitted, if not, application requests a home occupation." If we say it is permitted, then I assume we don't have to take the next step because the way it's worded "if not." There's restrictions as to the home occupation, that's what we have to state.

Mr. David Douglas stated it seems simpler but my understanding of the permitted use is that an overnight stay would not be permitted under permitted use.

Mr. John Klarl stated I didn't know if you wanted Mr. Hoch or I looking at this whether you want us to include that in a possible Decision and Order.

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

Mr. David Douglas stated just make a clarification.

Mr. John Klarl stated so the D&O would at least say two things: 1) it's a permitted use, 2) that permitted use does not include people staying over.

Mr. John Mattis stated right.

Mr. Wai Man Chin stated that's it.

Mr. David Douglas stated once a D&O has been drafted we vote at the next session on that D&O. Do we need some sort of motion?

Mr. John Mattis responded we adjourn it.

Mr. Charles Heady stated I make a motion on **case 23-10** to adjourn it to February...

Mr. John Klarl stated well, it's closed and reserved. You make a motion to direct a Decision and Order consistent with tonight's discussion.

Mr. Charles Heady stated what John said.

Seconded with all in favor saying "aye."

**C. CASE No. 24-10**                      **Department of Technical Services for an Interpretation**  
that the retail sale of bulk building materials such as sand, gravel, masonry blocks and  
stone, whether stored outside or in a structure, is regulated by Local Law No. 12 of 2010.

Mr. Wai Man Chin stated there was a Decision and Order and what we've indicated is correct right now. I would say we adopt the Decision and Order as it's drafted.

Mr. John Klarl stated the one that was handed out tonight.

Mr. Wai Man Chin stated yes.

Seconded with all in favor saying "aye."

Mr. David Douglas stated that D&O is adopted.

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### **ADJOURNED PUBLIC HEARINGS**

**A. 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. Dom Santucci stated I'm looking to put a deck on the back...

Mr. Ken Hoch stated wrong case.

Mr. David Douglas stated you're on for two things today.

Mr. John Mattis stated based on the fact that the Town passed **Local Law 18** in 2010, which now allows special permits for apartments on the property in question, I think we could have the applicant withdraw this case.

Mr. Ken Hoch stated we did get a letter asking to withdraw it.

Mr. David Douglas stated I'm sorry, I didn't see we got a letter today which the applicant is indicating they're withdrawing their application due to the Local Law that Mr. Mattis just read.

Mr. John Mattis stated that case is just withdrawn.

Mr. John Klarl stated on **case 30-09** I make a motion to receive and file the letter.

I will, seconded with all in favor saying "aye."



kind of tough.

Mr. Raymond Reber stated the orientation of the other houses in the area are such that it would be pretty difficult to even see this deck.

Mr. Dom Santucci stated the only house that's going to see it is possibly the house next door that I have now.

Mr. Raymond Reber stated and even then it's not anything unusual and it's not facing that house. I don't see any problem at all with this and as Mr. Mattis indicates, because of the slope, they'll have no use at all in the back so this gives them a little area on the deck that they can use the outdoors. I would move that we favorably consider this application.

Mr. John Mattis stated I concur.

Mr. Wai Man Chin stated I have no problem.

Mr. David Douglas stated I think most of us agree.

Mr. Raymond Reber stated you've got to ask the audience if they have any comments. On **case 25-10** I make a motion to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Raymond Reber stated on **case 25-10**, Santucci Construction property on 57 Radzivila Road, an area Variance of **12** feet from the rear yard setback for an open deck, this is a type II SEQRA no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Mr. Dom Santucci stated I thank you very much. I appreciate it and have a nice Holiday.

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## **ADJOURNMENT**

Mr. Wai Man Chin stated I make a motion to adjourn the December meeting.

Seconded with all in favor saying "aye."

**NEXT MEETING DATE:  
Jan. 19<sup>th</sup>, 2011**