

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, June 16<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

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

Absent

Wai Man Chin, Vice Chairman

**ADOPTION OF MEETING MINUTES for May 19, 2010**

Mr. David Douglas stated we have the draft minutes for May 19<sup>th</sup>, do we have a motion to adopt those minutes.

Mr. Charles Heady stated 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.**



## **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. David Douglas stated we'll put this one at the end and come back to it.

Mr. David Douglas stated nobody's here so I would ask that Mr. Hoch send a letter to the applicant telling him that he needs – our standard letter, he needs to come next month or it will be deemed abandoned.

Mr. James Seirmarco stated also let the record indicate that we did get a memo from Ralph Mastromonaco on May 20<sup>th</sup>.

Mr. David Douglas stated presumably the applicant wants to go forward because we had asked Mr. Mastromonaco for some additional information and he provided it to us.

Mr. John Klarl stated I think brought it to the Planning Board also.

Mr. John Mattis stated this is the second time this has happened when we haven't been asked for an adjournment and nobody showed up. Could we put in that letter that if this happens again that we will deem this case abandoned?

Mr. David Douglas stated I think that's going to be part of the letter.

Mr. John Mattis stated any other time, if subsequently it happens not just next month, any time in the future. This happened twice now. Is that acceptable?

Mr. David Douglas responded that fine with me.

Mr. Raymond Reber stated I make a motion on **case 06-10** to adjourn to the July meeting and in the interim a communiqué be sent to the applicant reminding him that he has an obligation to show up at these hearings otherwise his case would be dropped, 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.**

Mr. Patrick Bell presented himself and stated I'm from Cronin Engineering. I'm here tonight with the owner of the property Nick Danisher. The property is located on 22 Pierce Street. We haven't been in front of the Board since the December meeting. I just wanted to give the Board a

little bit of a timeline of what brought us to the Board originally and what's transpired in the past six months since we've last been here. Originally, we made an application to the Building Department for a Building Permit for a house. The house was located outside of the building envelope in an effort to mitigate the impact of building the structure, mitigate the impacts on the slopes of the property and the existing wetland area that had been flagged on the property. At the December meeting that plan was shown and reviewed. Comments from the Board indicated that you weren't very comfortable with where we had situated the house. Approximately 90% of the house had been outside of the building envelope within the setbacks of the property. At the January work session we submitted some alternatives and talked about it with the Board about different options that we had. The Board indicated that if we had moved the house back into the right onto the property that it would be a plan that they'd be more comfortable with approving but since that time we also had a title search done for the property to make sure that the property had rights over Pierce Street and Ladd Street or accessed. That title search was done and came back and showed that we did have rights of access. Additionally there was a review that was done by the wetlands consultant **Sven Hogger** based on our different alternatives. He indicated in his review that the plan that we show that's here tonight was the preferred option and we've also received an e-mail correspondence from the Director of Technical Services, Mr. Ed Vergano, indicating that that was the preferred option from him and additionally that if the Board ultimately denied the application as shown that he would be inclined to approve a plan that showed the house fully within the building envelope.

Mr. David Douglas stated just to be clear, that's not completely what he said it. He said he would be inclined to approve the building application assuming all other development issues are adequately addressed.

Mr. Patrick Bell stated I didn't mean to mislead the Board. The same building issues that would come up with the approval of this plan we'd have to take care of that with a plan shown the within the building envelope. It's our desire to have the plan as shown, approved to lessen the impact on the wetlands and the slopes of the property.

Mr. John Klarl stated you said the plan as shown, did you number these plans?

Mr. Patrick Bell responded this is alternative **2.2**.

Mr. John Klarl asked Mr. Vergano, when he refers his e-mail June **15<sup>th</sup>** option **2** he's talking about the same plan?

Mr. Patrick Bell responded correct, yes.

Mr. John Klarl asked he called it option **2** and you called it alternative **2**?

Mr. Patrick Bell responded the plan was labeled as alternative **2**.

Mr. John Klarl asked but you and Mr. Vergano are talking about the same plan?

Mr. Patrick Bell responded correct.

Mr. John Klarl asked the other thing is you mentioned the title report, is that the title report you received for the Pregno Agency in Peekskill?

Mr. Patrick Bell responded yes.

Mr. John Klarl stated the Pregno Agency showed that there was affirmative rights to go from the property to the public street. I think it was e-mailed to me some time ago and I recall reading it but I don't have a hard copy.

Mr. Patrick Bell responded it described the rights of the property or the streets shown on the map.

Mr. John Klarl stated I think the Pregno Agency was ready to give you an affirmative insurance to ensure the access from the property to a public street. Which public street? Is it Pierce?

Mr. Patrick Bell responded Pierce yes and East Hill Road.

Mr. Charles Heady asked isn't that at the end of First Street?

Mr. John Klarl responded stated if I recall I don't have it in front of me. I recall from reading the narrative he said the Pregno Agency, I can look at it, and said they would ensure access from the road to the public highway. I'm looking at the Pregno Agency letter of April 22, 2010: it says "the premises are lots on filed map 1793. The map is a continuing offer of dedication to the Town. The owners of lots on filed map 1793 have rights over the streets shown on said map for ingress and egress. There are no easements of right-of-way found in the record." What he's saying here is that he believes that there's rights over the road on the filed map that fronts to the public road. It's not tangential to the public road rather there's rights from the property to the public road.

Ms. Adrian Hunte stated I have a couple of questions. Mr. Vergano's memo to Mr. Hoch mentions that there's been consultation with the wetlands consultant and the wetlands consultant feels that of course the preferred development option is to keep the house out of the wetlands but can we actually do that with the driveway across the street on Pierce Street is it?

Mr. Patrick Bell responded if we access the property off of Pierce Street, the driveway would come in in the front of the property and there would be no impact on the wetlands.

Ms. Adrian Hunte asked and also that the wetlands are ecologically insignificant?

Mr. Patrick Bell responded yes.

Ms. Adrian Hunte stated if we put the house in the wetlands that would be option, which one, **1**? Then you would need a Variance?

Mr. Patrick Bell responded correct, that would just be handled within the Building Department, Department of Technical Services.

Ms. Adrian Hunte asked for access by Pierce Street for the driveway, would that facilitate ingress and egress of emergency vehicles, because it's an extremely steep driveway down the...

Mr. Patrick Bell responded correct, we had gotten comments back from the Fire Department, sorry I don't have the comments in front of me, but they had requested a larger turnaround at the end of the street.

Ms. Adrian Hunte asked would that provide for a larger turnaround?

Mr. Patrick Bell responded yes, absolutely. The access currently you access the property off of Red Mill Road if I remember correctly and with our development we'd be proposing to connect to East Hill Road with Pierce Street and access the property that way. It doesn't guarantee that everybody else – I don't know what's going to happen with the other people that currently access their houses off of Red Mill Road.

Ms. Adrian Hunte asked that was my next question. There are other people involved here. You don't have total control over...

Mr. Patrick Bell responded that would be a decision with the Town. We would build the road to facilitate allowing the current property owner who lives across the street to access the road off of Pierce Street coming off of East Hill Road but I don't think it's within our power to force them to use it although it will be there but I think that would be a Town issue as far as if they wanted to close the access from Red Mill Road. We'll provide access for the property owner and any other property owners to the Town specifications.

Mr. John Mattis asked what's the square feet of this proposed house? The footprint.

Mr. Patrick Bell responded the footprint is **1,500** square feet.

Mr. John Mattis asked what's the width and the depth?

Mr. Patrick Bell responded the width is **50**, the depth is **30**.

Mr. John Mattis asked the Variance is for a third of that which would be **50' x 10"**. That's **500** square feet or a third of the property. Some of the things we look at is the Variance significance. This is much more than any kind of Variance we have ever given. It's self-created. It's significant. Just about anything on the test that we look at, it doesn't meet any of the criteria. We would be going into new territory if we even considered approving something like this. As

far as the wetlands, if the Town wants to grant that, that's their prerogative. Our consideration is the Variance itself not the wetlands.

Mr. Patrick Bell responded there's environmental factor to granting the Variances, is there not?

Mr. John Mattis responded no and does it make a significant change in the neighborhood and yes it does when you have a Variance that significant. We had the neighbor across who is opposed to this also. He was in here and said he doesn't want it encroaching towards Pierce Street at all.

Mr. Patrick Bell responded it's his right as property owner...

Mr. John Mattis stated but that's part of our consideration also.

Mr. Patrick Bell stated we would provide screening as warranted to block the view – if he's worried about encroaching on Pierce Street...

Mr. John Mattis stated he doesn't want it closed in he wants it back where it should be, where he considers it to be.

Mr. Patrick Bell stated there's existing houses on Pierce Street that are as close to the property line if not closer than what we presently show and even scaling off of the map the property owner across the street the front of their house is as close to the property line as what we're proposing.

Mr. John Mattis stated but as far as I know they pre-existed zoning. I don't think there's been Variances given.

Mr. Patrick Bell stated I don't think there's a significant impact on the character of the neighborhood if the houses across the street are the same distance from the property.

Mr. John Mattis stated a **500** square foot Variance across a **50**-foot wide house is a significant Variance.

Mr. Patrick Bell stated what we're showing as far as distance – the distances are the same.

Mr. John Mattis stated the difference is I wouldn't be happy if I lived across the street where I'm looking at wooded land and no houses in front of me and all of a sudden a house in front of me that's moved **10** feet forward, **50** feet across, I wouldn't be in favor of that either, where I had a nice, quiet neighborhood and then – it's one thing that if a house can't be put across from me but moving it closer is yet another issue.

Mr. Patrick Bell stated the effort to move it forward is to lessen the impact to the wetlands.

Mr. John Mattis stated I think Mr. Vergano gives us an argument why we shouldn't approve it because he says that they are "ecologically insignificant." When I see a word "insignificant" I don't the wetlands and putting it in the wetlands means anything. That just gave me more reason why I wouldn't do it and they can be "adequately enhanced." If it's "insignificant" and it can be "adequately enhanced" there's no reason to give a Variance.

Mr. Raymond Reber stated that's the point that I picked up because when we were looking at this and understanding the problems that the applicant was having we understood you could not accomplish all the goals of staying within the boundaries that are allowed by the zoning and not infringe on the wetlands. We asked for the Town and their people to evaluate the steep slopes and wetlands issues so we can understand how significant they are because one of the factors that we're supposed to consider is: does the applicant have an alternative to getting a Variance? The alternative is you don't get a Variance can you still build it? This statement from the head of DOTS says based on our Town expert on wetlands they're "insignificant." Well, if they're insignificant it means if you touch on them a little you're touching insignificantly on an insignificant wetland so therefore no Variance is needed. I look at the layout and I say okay, fine, if you take the house the way you have it now and just push it down so that the front of the house lines up with that boundary, the worse that would happen is that you would encroach slightly on the wetlands and the corner of the house may actually go over the setback line off of Ladd Street. If that's true, and it's just the corner of the house which represents "an insignificant" amount of the square footage, and if it's only going to go over the line a couple of feet that tends to be diminimus so I would say, to me, that's the appropriate place to put it. It creates an absolute minimum Variance with minimum impact on the wetlands, some but minimum, on what is considered insignificant and to me that's the way we should go.

Mr. David Douglas asked the wetland consultant's report I see a letter from him dated January 14<sup>th</sup>. Do you know whether there's been anything further from him?

Mr. Patrick Bell responded there is a plan that was submitted June 1<sup>st</sup> to Code Enforcement that reviews this layout and two layouts where the building is placed within the building setback.

Mr. David Douglas asked so the wetland consultant did additional June 1<sup>st</sup> report?

Mr. Patrick Bell responded correct.

Mr. David Douglas stated I don't think we have that. One of the reasons I was asking – it's not in my packet, I haven't seen it.

Mr. James Seirmarco asked did you get any documentation from the Fire Department as what Dave recommended?

Mr. Patrick Bell responded yes, it was a list of a couple of things on a piece of paper that apparently had a review from another plan that they looked at. It was faxed to my office.

Mr. James Seirmarco asked do you have a copy of that Ken?

Mr. Ken Hoch responded I'm looking Jim. I don't remember anything from the Fire Department.

Mr. James Seirmarco stated just for the record I would like to see something from the Fire Department officially because that is a long way to go.

Mr. Patrick Bell stated I'll check my files.

Mr. David Douglas stated I'm pretty much at a disadvantage because I'm reading this for the very first time but in the wetlands consultant's he says "neither of the alternatives offers mitigation proposals." I'm trying to see whether this June 1 letter, in fact, supports the e-mail from the head of DOTS saying that it's insignificant – it may well support it.

Mr. John Mattis asked why don't we have the June 1<sup>st</sup> letter?

Mr. Ken Hoch responded I distributed that the last time.

Mr. David Douglas stated it couldn't be because we had our meeting in May.

Mr. John Mattis stated well if it's a June 1<sup>st</sup> letter we couldn't have gotten it in May.

Mr. Ken Hoch stated in the last packet...

Mr. John Mattis stated there was nothing.

Mr. David Douglas stated I don't think we got it. I personally would like some time to look this over and to think it through. I'm seeing for the first time an e-mail from Mr. Vergano dated today and I'm seeing for the first time a five page, single spaced letter from the wetlands consultant.

Mr. John Mattis stated and it appears that you're the only one that has it.

Mr. David Douglas stated you just handed it to me this second. Nobody else has seen it. I think that in all fairness we should have some time to see what this says and considers how it impacts on our views.

Mr. Ken Hoch stated Mr. Chairman I also found a handwritten note from the Fire Department regarding this application. There are three items they put on it: 1) they wanted the turnaround widened, 2) they wanted the road repaved, 3) and they wanted to install a fire hydrant within **800** feet of the residence or the home must be sprinklered.

Mr. David Douglas asked this is the February 9<sup>th</sup> note?

Mr. Ken Hoch responded yes, February 9<sup>th</sup> fax that was sent over.

Mr. John Mattis stated I think we're making too much of an issue over the wetlands because this Variance is so significant that I would not vote for it even if they couldn't put a house there. There are properties that are so tough to build on that maybe they shouldn't have houses unless they can fit within the zoning envelope, and if you can't put it in there then it's too bad. We're not here to give excessive Variances because somebody wants a house on a piece of property that could barely support a house if it can at all, based on steep slopes and wetlands.

Mr. Patrick Bell stated we're just trying to, like I stated earlier, lessen the impact on the wetlands at the property.

Mr. John Mattis stated my point is if the consultant came back and said the wetlands are significant and shouldn't be encroached on I would still vote against this because then you shouldn't have a house on there with a Variance that large regardless. We're not here to just give Variances away so somebody can have a house. There's no guarantee when you have a piece property...

Mr. Patrick Bell stated I think as an owner of a property that's paying taxes on the property that they have the right to develop the property if what they're proposing...

Mr. John Mattis stated not if we have to give a fairly significant Variance like this. We never give more than **10** or **15%**, you're asking for **500** square feet, one third of the house.

Mr. Raymond Reber stated either way, the applicant basically has to get a wetlands Variance because the wetlands Ordinance requires a **100** foot buffer and when you add the **100** foot buffer, as you so indicate here, the whole property is within that buffer. So, either way they've got to get a Variance to encroach on the wetlands. So, to me, how close you encroach and whether you encroach a little bit on what's actually the wetlands and totally in the buffer zone on something that they declare insignificant I think we're splitting hairs here. I just don't understand why it becomes an issue.

Mr. John Klarl stated it's not even a Variance so much as they have to get a Permit. They have to get a Permit.

Mr. Raymond Reber stated I understand that.

Mr. John Klarl stated I'm just saying not just a Variance.

Mr. Raymond Reber stated either way they have to get a Permit no matter whether we give them the Variance or we don't give them the Variance they've got to get a Permit and to me since the Variance is significant, as Mr. Mattis has indicated, and since the communiqué from the Director of DOTS or our wetlands consultant says this is not a real significant wetland, it's insignificant I

don't understand why we're getting all hung up on this. Like I said don't give the Variance unless it's a minimal one just so we can lay it out on the property and he's going to have to go for his Wetland Permit anyway.

Mr. David Douglas stated I'm inclined to agree with what Mr. Mattis said and I guess Mr. Reber as well that this is not appropriate for a Variance. I think some of my concerns are not purely having to do with that and that's for somebody else other than us in this Board to address but I do want to know whether it be e-mail that we got today which says that the wetlands is "insignificant and can be adequately enhanced" if it encroached is supported by this letter that I've seen for the first time. I don't think that's going to change my vote one way or the other but I have concerns as a citizen as to whether or not this e-mail is supported by the actual report that I've been skimming as people are talking. My initial gut reaction is it's not and I think that DOTS should more closely look at the report and what it's conclusions are and I think, as Mr. Mattis said, some lots simply within our Code are not buildable and should be looked at very closely. But, on the Variance level I agree with what other people have said that it doesn't seem that this is proper for a Variance even putting aside any of the wetlands issues.

Mr. Patrick Bell asked there was a request that the Director of Technical Services have input on the necessary approvals at the lot. That's what his response was – the e-mail response.

Mr. David Douglas stated I see what his response is and I guess it's for him and his department to make that determination. I have some concerns as a citizen as to whether or not it's backed up by the documentation but that's not what we vote on here.

Mr. Patrick Bell stated that's outside of the realm of my concerns also. I would just like to get an approval for the property owner. As you had indicated you wanted to review the report.

Mr. David Douglas stated in thinking it over I was convinced by what Mr. Mattis said. I do want to review the report but I don't think it's going to impact my vote on whether there should be a Variance or not.

Mr. Patrick Bell stated I would request at least an adjournment for a month to allow the Board to review the information and then in that time...

Mr. James Seirmarco stated before we do that on page 9 of the D&O, the last D&O they refer to – this was D&O 1989 page 9 there's a letter written by Mrs. Edling who wrote to Mohegan Volunteer Fire Association. She received an answer, they re-stated what we knew from the prior case as far as the Pierce Street being "difficult to exit from" and she has made this part of the file. I'm not sure what that means.

Mr. Patrick Bell responded I believe – from what I'd infer out of that is that the access from Pierce Street onto Red Mill Road is a difficult, it's right on the corner, so that would probably be the access she's talking about but as far as the plan shows we would access the property off of East Hill Road and come in the other way and provide a more adequate ingress and egress.

Mr. James Seirmarco stated I don't understand why she wrote the letter to Mohegan Volunteer Fire Association. I understand exactly what you said. Am I missing something about...

Mr. John Mattis stated she was the Clerk of the Board at the time and this was a section – it's a **280a** and when we have the authority over that we always requested of the Fire Department that they felt that they could have adequate access and that's merely what she was doing.

Mr. John Klarl stated that was a key for **280a**, it was to look at emergency access.

Mr. John Mattis stated yes and that's merely what she's doing.

Mr. James Seirmarco stated I agree with – there's nothing else inferred here.

Mr. Raymond Reber stated so that we don't have additional delays if we're going to adjourn for a month would it be reasonable to ask if you could take this plan, and as I indicated, if you just move the house down, keep it laterally positioned the way you have it and bring it so it's even with the setback requirement and then show us whether or not you do in fact need a small Variance because the corner of the house on the lower side might actually protrude beyond that lower triangular setback off of Ladd Street right-of-way. That I would be willing to tolerate because that would be very minimal Variance on what is really just a right-of-way and not actually a road.

Mr. John Klarl stated maybe Mr. Bell could take his pen and make what you described so we would see it. Can you do what Mr. Reber is suggesting that you move the house...

Mr. Raymond Reber stated pull it down so that you then have no Variance on the top and you may have a slight Variance on the corner. I'd just like you to calculate to see if you need that and how much you would need.

Mr. Patrick Bell responded okay, not a problem.

Mr. James Seirmarco stated that might be a lot less square footage.

Mr. John Mattis stated it's only going to be a little corner. That would be consistent with Variances we've granted.

Mr. Patrick Bell responded okay.

Ms. Adrian Hunte asked any further comments, the audience, anyone? I make a motion to adjourn this matter to the July 21<sup>st</sup> 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, previously on this application the Clerk of the Board was advised there was litigation involving parties in this residence and the most recent pronouncement and I'll turn it over to Mr. Hoch was that litigation was on-going and possibly going to be settled but I don't think we've heard further, Mr. Hoch, in recent days?

Mr. Ken Hoch responded no I made two attempts to contact Mr. Delaney with no response.

Mr. John Klarl stated so my suggestion is given the fact that there was litigation and we did see a court order concerning this property that we adjourn it to the next meeting in July and we'll try to ascertain the status of the case, where it is, who's before and if it's been resolved.

Mr. John Mattis stated I make a motion that we adjourn to July, seconded with all in favor saying "aye."

Mr. John Klarl stated and we'll direct Mr. Hoch if he could write a short letter to the applicant so he can bring us up-to-date just so we'll be on written record.

**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 believe we got a letter from the representative of the applicant to request that the case be adjourned to July.

Mr. James Seirmarco stated August.

Mr. David Douglas stated I've got a letter stating to July.

Mr. Charles Heady stated I make a motion on **case 11-10** to adjourn this case until July 21<sup>st</sup>, 2010, seconded with all in favor saying "aye."

**E. CASE No. 12-10**                      **Erica Harris** for an interpretation that a partially covered front 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. David Douglas stated I think last month you'd had a hearing and you were going to come back with an alternative plan.

Mr. Lee stated yes and I believe I delivered that to Mr. Hoch.

Mr. John Mattis stated we had said that we would look favorably at a **6' x 6'** and you're **8 ½** feet wide, by **6'8"** – **8'5"** I'm sorry by **6'8"**.

Mr. Lee stated the current stoop is **80** inches from the house, **6'8"** out and **5'11"** wide.

Mr. Raymond Reber stated I've been to the site and you're right. Based on that we said well okay we could consider the **6'8"**, where does the **8'5"** come from?

Mr. Lee responded I was trying to tie the roofline into the existing house roof and gutter.

Mr. Raymond Reber stated yes, but that's nice for whatever architectural appeal you were trying to achieve but it also indicates here that you're showing a chair off to the side of the door and then you provide us some photos and one of them you note where there's not enough room for a chair. Let me explain something, when we agree to put porticos on the front, they're there for one reason only, to shelter the entrance so when somebody comes up to the door they're not standing in the pouring rain, that's all, not to sit there or to socialize or to do anything else because it is encroaching on the setbacks. We accept that as an entranceway just to protect the door. I'm kind of upset and I'm not inclined to concede on the **6** foot width. You've got a **5'11"** wide, mine's not that wide and I've had it for **40** years and we get in-and-out so I would suggest that you reconsider that.

Mr. Lee stated it may have been my misunderstanding of the Board as we had removed the right side balance of the porch which was originally developed.

Mr. John Mattis stated you've showed us a series of **16** pictures and virtually all of them, well there's one here maybe another one, are probably not more than **6** feet wide so it makes you wonder if you're building a case for a **6** foot wide by showing us these in different neighborhoods.

Mr. Lee stated one of the comments made by the Board members last month was regarding the house at **16** Whittier which shows an existing overhang which is picture number **5** and number **8**, that stoop or pad is also centered on the door just as the existing stoop at the **12** Whittier is centered on the door...

Mr. John Mattis stated actually what you're showing us is the **8'5"** is not centered on the door and the other one on Whittier you referred to doesn't have a Variance. Things are a little different when you have Variances.

Mr. Raymond Reber stated if they're within the setback they can do what they want in the front. Our minutes right here page **17** quotes me as saying "we have a problem with anything beyond

**6' x 6'.**" Then Mr. Douglas conferred later in the minutes it says talking about a "**6' x 6'** and not going off to the side." I think it was repeated a couple of times here.

Mr. John Klarl stated I think in the end we almost wrapped up saying to the applicant that this Board would generally agree to a **6' x 6'** covered front entry as you left the podium that night.

Mr. James Seirmarco stated I personally think that the **6'8"** I would go along with that but I wouldn't go along with anything wider than **6** foot.

Mr. Charles Heady stated I think at the work session we talked about **6'8"**, didn't we Jim?

Mr. James Seirmarco responded yes.

Mr. Raymond Reber stated that was **6'8"** coming out but **6** foot on the width because he's only got **5'11"** on the concrete pad there now, you'd have to widen the pad to go beyond.

Ms. Adrian Hunte stated **6** foot wide by **6'8"** from the house. That's it.

Mr. Lee asked so essentially the design that's on page **2** of the hand-out?

Mr. Raymond Reber responded you got it. That's it.

Mr. Lee asked if I modify the drawings to reflect that?

Mr. Raymond Reber responded we can approve it for this sketch, I think, I could.

Mr. John Mattis stated I take exception to your comment though that it says it's "unattractive" because I'm looking at other ones here that I don't think they're unattractive and they're certainly no more than **6** feet wide and don't blend in with rooflines.

Mr. Raymond Reber stated your page **2** your second elevation is typical of a lot of houses in the Town. You're insulting a lot of people if you say their entranceway is unattractive.

Mr. Lee stated I will modify the drawings according to page **2**.

Mr. John Klarl asked when you say page **2** is that the one that has the narrative at the bottom that says "porch only as wide as stoop appears to be?"

Mr. Lee responded yes.

Mr. John Klarl stated that's page **2** so everyone understands we all have the same page **2**.

Mr. John Mattis asked are you authorized to act on behalf of this tonight and accept that?

Mr. Lee responded the owner's not going to be happy about it. She was willing to invest quite a sum of money into extending the front porch of her house.

Mr. David Douglas asked has she authorized you to accept this or not?

Mr. Lee responded no, I have to present it to her.

Mr. David Douglas stated let's adjourn it to next month so you can speak with her about it.

Mr. Lee asked is it possible for me to contact her right now?

Mr. John Klarl stated we can do a second call.

Mr. David Douglas stated if you can reach her now that's fine, sure. You want to do that?

Mr. Lee stated a short recess.

Mr. David Douglas stated why don't you try to reach her we'll go into the next matter and come back at the end.

*Resumed discussion after applicant contacted his client.*

Mr. Lee stated I've been in contact with my client and she's acceptable of the Board's suggestion of just the **6'8" x 6'** stoop. I'd like to get a clarification, is that just the stoop or is that also the roof overhangs which were planned for **12** inches on either side?

Mr. Raymond Reber stated I guess that's reasonable.

Mr. David Douglas stated I think that's fine.

Mr. Raymond Reber stated but the front projection is **6'8"**, that's the total, you're not going to be going beyond that.

Mr. Lee stated I'm not going to go beyond that. You're all invited when we're building. Are copies of the minutes provided to the applicant?

Mr. Raymond Reber stated you can get them from Code Enforcement.

Mr. Lee stated we can have the ones that you're referring to.

Mr. John Klarl stated we just approved the May meeting minutes tonight so you wouldn't get them until we approved them. Is your client consent to the page **2** drawing then you're saying?

Mr. Lee responded my client consents to the page 2 drawing **6'8"** out from the house, **6** foot maximum width.

Mr. John Mattis stated with **12** inch overhang on each side.

Mr. Lee stated **12** inch overhang of the roof.

Mr. Raymond Reber stated he's basically saying a maximum width of the roof is essentially not to exceed **8** feet because he'll be **6** feet to your posts...

Mr. Lee stated picture number **14** is another porch that I designed for John Dorsey, that one had setbacks, just as an example.

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 on **case No. 12-10**, seconded with all in favor saying "aye."

Mr. James Seirmarco continued I make a motion that we approve with the stipulations that Mr. Lee just gave us the dimensions of **6'8"** coming out and it'll be **6** foot wide plus with the side overhang of **12** inches for the roofline, on each side, this is a type II SEQRA no further compliance is required, seconded with all in favor saying "aye."

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

Ms. Adrian Hunte stated I'm going to recuse myself.

Mr. James Seirmarco stated Mr. Chairman a lot of work was done by the Town, Ken, summarizing all the signs that are on this property. He made a table of the majority of the signs. Mr. Parthemore is the owner of one of those signs. He had a long discussion at the Zoning Board workshop on Monday and our conclusion I believe was that the owner needs to address most of the problems here, not problems but concerns. He's here.

Mr. Rich **Barsteck** presented himself and stated I'm the owner.

Mr. Raymond Reber stated I believe there were two alternatives that seemed to be discussed by us: one is based on the previous approvals by the Planning Board and what have you if some of the so-called directional signs are reduced to the appropriate square footage they would be exempted from this calculation and then it got down to the freestanding signs and presumably there is approval for a certain square footage and as I understand it if the Cristina sign could be reduced to just under **25** square feet then it would fit in with what's already been approved and we wouldn't have to argue this. The other alternative is if the sign wasn't reduced whether the

Wachovia sign standing sign is necessary since Wachovia has a large sign on the wall but that's something we can decide. That's why we really said the two of you and possibly Wachovia would have to sit down and I don't know what Wachovia's rights are and they might say "hey we got the sign that's tough" and then Cristina's is going to be forced to figure out how they can come up with a smaller sign. I believe those are the options that are available that we have to deal with.

Mr. Michael Parthemore asked how far over are we on square feet with these freestanding signs?

Mr. John Klarl stated I think Mr. Hoch did the study here.

Mr. Ken Hoch responded on the Cristina signs the square footage is **42.75** square feet and your maximum is **24**. Now the sign itself is **18** square feet, the name Cristina's, it's the base that is taking up the rest of that over **20** square feet.

Mr. John Klarl asked so what is the sign itself?

Mr. Ken Hoch responded the sign itself is **18** square feet.

Mr. John Mattis stated but the Code says we have to look at the base and the whole rectangle, not just the sign.

Mr. Raymond Reber stated but we make exceptions if it's on a post.

Mr. Michael Parthemore stated if you read in your Code the definitions "a sign area of" it says "excluding the necessary supports or upright on which such signs is placed."

Mr. James Seirmarco stated that's correct, "necessary" so if the Cristina sign was on a **4' x 4'** you'd be fine. That's the way it is. It's the base that's being counted now and that's because the Code requires us to make a rectangular box around the whole sign.

Mr. Michael Parthemore asked shouldn't the base be excluded from the calculation?

Mr. James Seirmarco responded we just don't. We never have. We use the same algorithm for all the signs. We have another sign we're going to look at and somebody put two **4' x 4'** brick holders of the sign, that's going to be counted but if somebody just puts a **4' x 4'** or something like that, a pole – that's why you see a lot of the signs are on poles are small supports just we don't consider those but when you change the whole base and make it brick, make it wood, then we're required to go around the whole thing.

Mr. Raymond Reber stated admittedly one could say this is a little bit of a grey area but I think the distinction is we have a lot of signs in the Town that are elevated but they're supported by a structural member, the purpose of the member is strictly structural not to add to any of the architectural features and I think the feeling here is that this base is an architectural feature of the

sign and that's what's giving us some problems. If it was just posts, one or two posts holding it then we wouldn't count that we would just count the sign itself.

Mr. James Seirmarco stated because you can't suspend the sign, we would not count the two poles on both sides then the Cristina sign just as it exists you're well within the size.

Mr. Raymond Reber stated again, Mr. Hoch, I understand that if we discount the base then they do fit within the square footage?

Mr. Ken Hoch responded yes they do because the sign itself is only **18** square feet. You could, theoretically, have a **6** foot decorative base and be within the **24**.

Mr. **Michael Parthemore** stated this sign, I took a good look at it and you know the sign was manufactured as a unit and it's UL approved sign and if we do what I think what you guys want us to do I don't think it's going to be structurally sound and I think the UL label will be void on it because the UL label is on the base of the sign which gives the voltage, the frequency and all these issues are going to come into play if we have to get a Building Permit to make the sign legal those are things that the authorize that have jurisdiction are going to be looking for on the sign. We're kind of altering the whole sign and I looked inside the sign and the sign is on an ugly black pole right in the middle. It's on an ugly black pole and I can easily take off this covering but it's going to look like hell. We can paint it and doctor it up or something with the lighting...

Mr. Raymond Reber stated as Mr. Hoch said you do have some leeway. What if you just made a smaller box around the ugly pole that conforms so that the face is within the square footage. I don't know how wide it would end up based on how high it is.

Mr. James Seirmarco stated you'll have **6** square feet.

Mr. Raymond Reber stated you'll have **6** square feet so if you make it – that sign is only off two feet off the ground, three feet off the ground...

Mr. **Michael Parthemore** stated I'll do whatever I have to but...

Mr. Raymond Reber stated maybe it's three feet off the ground so you have up to two feet in width so you can make a box just a little bit smaller and it would be in spec. You can even put decorations on it because now that it's part of the sign you can do what you want with it.

Mr. **Michael Parthemore** asked just in the middle?

Mr. Raymond Reber responded yes, just shrink it down so it's within that square foot parameter and then you're okay, put a smaller box around it.

Mr. **Michael Parthemore** stated we can do that.

Mr. James Seirmarco stated a clever carpenter will build something around that no problem.

Mr. Michael Parthemore stated we can do that.

Mr. James Seirmarco stated leave the Cristina sign alone.

Mr. Ken Hoch stated we'd still have the issue of their five freestanding signs.

Mr. Raymond Reber stated I think what we have to do is adjourn so they can address all of the other issues and straighten that out.

Mr. John Mattis stated we also have an issue of the wall signs too which came up, so we're going to have to address that.

Mr. Raymond Reber stated that at least gets them out of trouble with the freestanding...

Mr. John Klarl stated Mr. Barsteck apparently there was a sit down meeting since our last Zoning Board of Appeals meeting where you came in and talked, do you have a global thought of all the signs there? Have you formulated some kind of plan?

Mr. Rich Barsteck stated there was one question we had I think Ken was going to ask the Board about on the directory...

Mr. Ken Hoch stated the double directory is one sign, you couldn't split it.

Mr. James Seirmarco stated you fall into the same category you have to put the rectangle around it so whether there is a pole connected to them it's still the supporting pole is on the bottom to the top and gaps...

Mr. Rich Barsteck stated that's really I think basically we were going to look into changing some of the directional signs.

Mr. James Seirmarco stated you could actually put two 2 square foot signs one on one side and one on the other. That'll work.

Mr. Rich Barsteck stated that's basically what we were looking at that'll work out.

Mr. Ken Hoch stated that and reducing the other Baltic Place sign, getting that one under four square feet.

Mr. Rich Barsteck stated I think we can get that under the four square feet.

Mr. John Klarl asked I assume that all the lease of all the tenants have a provision that require

that any signs that they put up or they propose be put up are subject to your approval?

Mr. Rich Barsteck responded yes, it's subject to our approval.

Mr. John Klarl stated as landlord.

Mr. Raymond Reber stated I have a question out of curiosity because we talked about it briefly at the work session, anybody that comes to that building essentially parks in that parking lot back where you have that walk with the directory sign correct?

Mr. Rich Barsteck responded yes.

Mr. Raymond Reber stated so the natural progression is they park there, they walk down that sidewalk, past the directional sign and then once they get to the inter-courtyard area they decide which direction they're going to go from there, correct?

Mr. Rich Barsteck responded not really because there are basically then someone would walk into the courtyard and have to walk back...

Mr. Raymond Reber stated because you have a few that go around to the outside, facing the Wachovia bank? You had some entrances there?

Mr. Rich Barsteck responded yes.

Mr. James Seirmarco stated well Route 9.

Mr. Raymond Reber stated yes, but nobody's going to walk back to Route 9.

Mr. John Klarl stated on the front of your building facing Route 9A do you have an access point to go upstairs from that side of the building?

Mr. Rich Barsteck responded there is basically the access is from all four sides.

Mr. John Klarl asked to the second level?

Mr. Rich Barsteck responded yes.

Mr. John Klarl stated so someone could walk on the sidewalk and walk in front of that building.

Mr. Rich Barsteck responded the second level is accessed from the two ends and one from the courtyard. That's really basically – that would be one other option is to move the directional sign up but when someone walks in then it's "which sign do I have to..."

Mr. James Seirmarco stated the compromise seems to be the two square foot signs one on each

side or something like that. The font is small enough you'll have to get out of their car to read it.

Mr. Rich Barsteck stated they have to be out there, it's just a matter of look at the left side or look at the right side.

Mr. John Klarl asked and so far Ken did they formulate a plan that would satisfy the sign Code now or are they still...

Mr. Ken Hoch responded no, that's what we had discussed at a meeting. It was Rich, myself, Chris Kehoe and Ed Vergano met last week.

Mr. John Klarl asked but they're getting closer?

Mr. Ken Hoch continued to come up with some alternatives. One of which I had suggested to the Board was that in conjunction with this Variance that the Board consider granting some additional wall signage so that he doesn't have to come back here every time – for example he has a new tenant, a potential tenant who put a lawn sign out on Route 9A which is illegal, so we talked about the fact that all right, if they're going to be co-tenanting in this case as part of the dentist office, they're going to want a sign, every sign would trigger coming back here and the 200 square feet I suggested was taken from the Planning Board's approved master plan sign which is still less than the 100% Variance the Board could grant.

Mr. John Mattis stated yes but we can't give a Variance except for what's there.

Mr. Ken Hoch stated that was the suggestion. We have a Planning Board approved plan and could we somehow streamline this if it was possible?

Mr. James Seirmarco stated they could put a sign with no names on it. We could do this all the time.

Mr. John Mattis stated it's not a sign.

Mr. James Seirmarco stated the one we approved on Crompond Road is full of for hence on it. Is there any comments from the audience? I make a motion that we adjourn this to the July 21<sup>st</sup> meeting to give the applicant a chance to change the Cristina sign and the remaining signs to be worked out with the Town, seconded with all in favor saying "aye."

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## **REMANDED CASE**

**A. 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. David Douglas stated under our D&O I believe that DOTS was supposed to get us additional findings, revised findings by June 21 so we'll consider this at the next meeting.

Mr. John Mattis stated we actually were given something this evening.

Mr. David Douglas stated we were given a draft.

Mr. John Mattis stated we haven't had a chance to see.

Mr. David Douglas stated that's just a draft that we got tonight. We'll discuss it at our next work session and it will be on the agenda for next month.

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**ADJOURNMENT**

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

**NEXT MEETING DATE:  
July 21<sup>st</sup>, 2010**