

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, October 18<sup>th</sup>, 2017*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman  
Charles P. Heady, Jr. (absent)  
James Seirmarco  
John Mattis  
Adrian C. Hunte  
Raymond Reber

Also Present

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

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**ADOPTION OF MEETING MINUTES FOR SEPTEMBER 27, 2017**

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

Mr. David Douglas stated the minutes from September are adopted.

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**ADJOURNED PUBLIC HEARING TO NOV.:**

- A. **CASE NO. 2016-24 Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center** for an Area Variance from the requirement that a hospital in a residential district must have frontage on State Road for this property located at **2016 Quaker Ridge Road, Croton-on-Hudson, NY.**

Mr. David Douglas stated we'll hear that next month.

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**ADJOURNED PUBLIC HEARING:**

- A. CASE NO. 2016-24 Ralph Mastromonaco** for an Interpretation of Permitted Uses in the M-1 Zone to address the ongoing Construction and Demolition use at Dakota Supply, on property owned by Briga Enterprises, Inc., **2099 Albany Post Rd., Croton-on-Hudson.**

Mr. Ralph Mastromonaco stated good evening, Ralph Mastromonaco. I've been before you before and just to summarize, I sought an opinion of the Town staff on an issue of zoning at the Dakota Supply Corp. plant in Montrose. I received an opinion from Mr. Preziosi and then I filed an appeal to this board of his interpretation. I submitted information to you on this matter, zoning information, and I have your – we're really for the last few months just going over the issue of whether I, as a resident and someone who lives close to this plant, has standing to make an appeal to your board. My attorney Mr. Amir is here. If you have questions about that, he'll be glad to answer them. He did submit a memo of law on the issue and which you've had now for I guess about a couple of weeks.

Mr. Jacob Amir stated good evening Mr. Chairman, members of the board. My name is Jacob Amir from the law firm of Smith Buss & Jacobs in Yonkers, New York. My focus is limited to the issue of standing. I'll defer to Mr. Mastromonaco on the substance of it. I submitted two letters to this board. And just on the issue of standing I would just like to bring two points to your board's attention. One, Mr. Mastromonaco is indisputably a resident within one thousand feet of the Dakota Supply Corp and under the code it would seem to me that that is presumptive standing because he's presumptively affected as recognized under the code. And two, under the case law that I provided to your board, the courts of the State of New York in the First Department, Second Department and Third Department, all underscore the point that standing is really dependant on whether the individual resides within the zone of affect of the subject matter and whether that individual has a unique or a special interest or harm resulting from that. In the submissions Mr. Mastromonaco's provided, meet that elemental standing factor. On the issue procedurally of standing both the case law and the presumptive recognition by your code gives him that standing so that your board can then address the substantive issue of the appeal from the staff decision.

Mr. David Douglas asked let me make sure I understood. You're saying that under our code he's presumed to have standing?

Mr. Jacob Amir responded yes, I would submit that under your code where it recognizes a residency within the zone of a subject matter, that would give that resident presumptive standing because it separates that resident from other residents outside that zone. It provides a framework to determine whether one has standing or may not have standing. Someone outside the zone may but someone within that zone should presumptively be deemed to have standing. It then has to meet the other elements of it.

Mr. Raymond Reber asked a question, how do you define the zone? For example, I know one of the issues that's raised is the noise issue with the trucks and what have you, even the operation of some of the equipment on site when they're grinding up the rocks. But, for example, I live a mile away. I hear it. Does that put me within the zone?

Mr. Jacob Amir responded it may put you within the zone if a governing board determines that the noise level affects you as a resident or owner.

Mr. Raymond Reber stated where I am, I'm sure if they did a decibel reading, it's probably within the limits of general noise that's accepted, even though I hear it. It's just like the highway. I can hear Route 9 traffic also where I live and I'm a mile away from that but they're not going to stop traffic on Route 9 and the noise isn't – it's there, I hear it, but at what point – we have a code, and I think by the code what they're saying is: within the property, as long as they meet the decibel limits at the boundaries of the property where the activity is taking place, it's acceptable. Now, how you regulate on a public highway? Like I say, if the noise of the trucks on the highway, how does that become an issue for us as a Zoning Board?

Mr. Jacob Amir responded well because the noise from the trucks, for the purposes of standing, the noise from the trucks are unique to that facility. This is not, as I understand, it trucks that traverse the road at 10 in the morning. They traverse in and out from the Dakota Supply three in the morning, at four in the morning. Now, to the question of whether someone is outside that zone, are they affected and do they have standing based upon a noise level? That is a fact question, but if the code recognizes a sphere of thousand feet within the subject facility then the code is, seems to me, is presumptively recognizing a boundary of standing.

Mr. Raymond Reber stated I don't know – do we have in our code any such definition? I think that's been part of our problem is to figure out how do we determine...

Mr. Jacob Amir responded sure, let me defer to Mr. Mastromonaco.

Mr. Ralph Mastromonaco stated if you look at the code for Contractor's Yards, the thousand feet is within – there is a thousand foot zone of interest in the Contractor's Yard section of the code. That site is approved for a Contractor's Yard, it was in 2003. So it's a Contractor's Yard. I'm within a thousand feet away and I think that, as Mr. Amir says, even if I was 2000 feet away, I would still have standing. I think the presumption's, automatic presumption within a thousand feet but beyond that anyone can really have an appeal before your board. You don't have to live within a thousand feet of anything to get...

Mr. David Douglas stated I don't mean to put you on the spot, but do you know what section that is where it says a thousand feet with respect to Contractor's Yards?

Mr. Ralph Mastromonaco responded in the Town Code you cannot have a Contractor's Yard within a thousand feet of a residential area. That's where we get the zone of interest being a

thousand feet.

Mr. Jacob Amir responded I think that's section 307-65.5 which refers to the Contractor's Yard unless I'm corrected. That sort of eases the inquiry that this board may have to make with respect to the issue of standing. By deferring to the code, the code provides that answer as to Mr. Mastromonaco. Are there are no other questions?

Mr. David Douglas stated I don't think so. Thank you.

Ms. Adrian Hunte stated thank you.

Mr. Singer stated the argument with regard to standing that has been presented by Mr. Amir makes certain presumptions. Those presumptions are not necessarily true. The first presumption is that Mr. Mastromonaco is a person who is affected. Now normally in this situation, the Zoning Board deals with property owners. He is not a property owner. There are cases that say that tenants may have standing. He is not a tenant. Apparently he is an invitee. An invitee may have standing, depends upon the nature and longevity of the occupancy. Clearly somebody who is an overnight guest would not have standing. Standing is something which is the burden of proof of which is on the applicant. We have no information as to how long Mr. Mastromonaco has been a resident, how long he intends to be a resident. Is he living with his son only until his house is finished or is he a long term resident? What is the length of the lease that his son has? Does it have a month left to go or a year left to go? Since he has not given any of that information, he has not given anything upon which it could be said that he has proven, as is his burden, to have standing. And as I have said to this board before, the application is stated to be for an Interpretation of the zoning code, it is not stated to be an appeal from any decision. The presumption of Mr. Amir is that this is an appeal from a decision which is not what the application states. And as I stated before, if it is an appeal from a decision, it does not state the basis upon which the decision is wrong, what decision he is appealing from and the basis upon which he claims that he's entitled to the relief. All of which is in your code. And for all those reasons, I would respectfully submit that he neither has standing nor does this board have jurisdiction to hear this application for an Interpretation of the zoning code which is what it's stated to be, not an appeal from anything. Thank you for your time.

Mr. Jacob Amir stated if I may Mr. Chair. As I noted to the board and copied Mr. Singer on my letter, the First Department in case of community Planning Board number 2 versus the board of standing an appeal recognized a resident's right to standing with respect to challenging a use variance. Whether this board wants to consider Mr. Mastromonaco a tenant as a defined under section 711 of the Real Property Actions and Proceedings Law, giving tenant's rights or whether this board wants to consider Mr. Mastromonaco a licensee under section 713 of the RPAPL. Whether a tenant or a licensee has rights with respect to that person's residency in their property. It doesn't depend on the length of the residency nor does it depend on the terms of any lease agreement if a lease agreement exists. So whether Mr. Mastromonaco is a tenant or a licensee, the question Mr. Singer raises, with all due respect, is a red herring. He is affected by the

conditions of the Dakota Supply Corp. He is within the zone of interest as recognized by your code and there is nothing in statute or in case law which requires or limits an appearance before this board to only owners or lease hold tenants of properties.

Mr. David Douglas asked can I ask you a question? If I understood you correctly, you're saying it doesn't matter if he's a tenant or a licensee, that he would be a resident and have standing in either case.

Mr. Jacob Amir responded that is correct.

Mr. David Douglas asked but what evidence do we have that he is a resident, be it a tenant or a licensee, whatever box you want to put it in?

Mr. Jacob Amir responded you can ask Mr. Mastromonaco and he can provide that testimony right now.

Ms. Adrian Hunte asked I have a question, I think Mr. Singer said that: "if anything Mr. Mastromonaco might be an invitee." It's my understanding that invitees are for business purposes. Can we distinguish here between that and the licensee at the discretion of the land owner or whoever owns the property?

Mr. Jacob Amir responded it would seem to me that an invitee or a guest is a transient individual not a person, either a tenant or a licensee under the Real Property Actions and Proceeding Law. And there may be other statutes which apply as well. I'm just using that as one framework. So to say that he is an invitee is a misstatement. He's either a tenant, under say a written lease or he is a licensee permitted by the owner to reside in the premises. And by the way, the RPAPL does not distinguish between long term and short term tenants or licensees, neither does the code.

Mr. David Douglas stated well that gets back to what I was asking. I'd like if somebody could just point me to whatever the evidence is indicating that he is more than just say an overnighter or occasional guest, that he's staying there at least on some medium term basis.

Mr. Jacob Amir responded I think Mr. Mastromonaco can...

Mr. David Douglas stated if he's staying with a child, he doesn't mean that he resides there. I just came back from a visit to one of my children. I won't pretend that I'm a resident of Wisconsin.

Mr. Jacob Amir stated with the understanding, Mr. Chair, that you can be a resident of two separate locations.

Mr. David Douglas stated I know.

Mr. Ralph Mastromonaco stated Mr. Chairman and board, at the last work session I brought in

my, as I said, junk mail that I get at that home. My legal address is there. My clothes are there. My guitars are there. My piano is there. My computer is there. I work about one mile away. My bicycles are there. It's my home.

Mr. David Douglas stated it may be. I'm not saying it is or isn't. I don't know if that's in our record. You say you brought in your junk mail. I don't have it in our record here.

Mr. Ralph Mastromonaco stated well I brought it in and I asked you: "do you want to see it?" and you said, or some members of the board would want to see it, so I didn't bring it back today but my son is here. He's my roommate. He's here. This is my home. I have no other home and I'm not sleeping in the street so this is where I live.

Mr. Raymond Reber asked the other question that's been raised is the issue of being able to even give an interpretation and in fact there was some correspondence between the Town Attorney's office and Mr. Mastromonaco back on June 20<sup>th</sup> raising that question and the fact that there has been a previous court case with this board explaining that we're very limited in our ability to do an interpretation. So I guess the question is if you folks can help us out a little bit there as to why this application, which asks for an interpretation, is something that's appropriate for this board to address.

Mr. Jacob Amir responded it would more correctly and appropriately be an appeal from a decision of staff members of the Department of Technical Services, the Town Attorney -- and the letter to your board identifies it as an appeal and requests for an Interpretation. Again, it's sort of a misdirection to, for the objectant, to call it strictly an Interpretation.

Mr. David Douglas asked so what specifically is being appealed, what decision?

Mr. Jacob Amir responded this is an appeal from the determination of the Department of Technical Services with respect to -- we could probably point to the letters that are in the original complaint.

Mr. Ralph Mastromonaco stated April 13<sup>th</sup>.

Mr. David Douglas stated April 13<sup>th</sup>, so you're saying it's an appeal from Mr. Preziosi's April 13<sup>th</sup> letter?

Mr. Jacob Amir responded and subsequent denials relating thereto. There are...

Mr. David Douglas asked what subsequent denials are there?

Mr. Ralph Mastromonaco responded Mr. Chairman, we had verbal denials as well.

Mr. David Douglas asked so there's nothing else written? I just want to make sure we understand what it is you're appealing from.

Mr. Ralph Mastromonaco stated Mr. Preziosi's April 13<sup>th</sup> letter to me last paragraph, I underlined it in my application to you. Then we were also received interoffice correspondence between Mr. Preziosi again and Tom Wood, the Town's Attorney, and in that letter he states an opinion that the concrete plant is permitted and I'm appealing that as well. That was the December 15<sup>th</sup> letter. It's in my May 24<sup>th</sup> submission.

Mr. David Douglas asked you're talking about Mr. Wood's December 15<sup>th</sup> email?

Mr. Ralph Mastromonaco responded it's from Michael Preziosi to Tom Wood.

Mr. David Douglas stated I'm sorry. I said it backwards.

Mr. Ralph Mastromonaco stated that's what we're appealing. We're appealing those Interpretations as well as all of the verbal Interpretations that I've received from Mr. Preziosi, Mr. Martin Rogers, and maybe even Ken chimed in on that too. And I think what you can see is that, regardless of these Interpretations, they're still working out there. They're still doing whatever they need to do.

Mr. David Douglas stated you know we don't want to talk about the merits.

Mr. Ralph Mastromonaco stated I'm just saying that that's another indication that my complaint has been denied by Mr. Preziosi.

Mr. Jacob Amir stated it is a little bit unorthodox, I would recognize that this is an appeal from a letter and from an email between Mr. Preziosi and Mr. Wood but in addition to the verbal direction which certainly your board really can't or can think about but you don't have verbal directions in writing so it's hard to examine that. But, at the very least, putting aside that it's an unorthodox communication it nevertheless is a decision and you can appeal from that decision, whether it's in an email or a letter or anything else, it is a writing.

Mr. David Douglas stated okay, well that's something we have to pin down, we have to mull over because the issue is an Interpretation or an appeal decision matters because the court specifically said of our prior cases that we couldn't do what we had done for years. And prior to that, what we had broadly construed in Interpretations and basically the court said "no we don't have the power to consider what the zoning code means in the abstract."

Mr. Jacob Amir stated the first point is what is the application before your board? And we submit that it is an appeal from a decision enacts made earlier as referenced in the application, and second, assuming it is an appeal, is the person who is bringing that appeal, does that person have the standing to do so? Is it a foreign individual? Is it someone who has foreign in the sense that, beyond the scope or is it someone that has the right to proceed? And we say yes, and assuming that is affirmed then you go to the substance of the appeal and I would submit that there are different standards. Whether someone has a procedural right to appeal is a different

standard which is a liberal broad standard under case law, than whether someone substantively has the grounds to obtain the decision that that person is asking. That's a more restrictive...

Mr. David Douglas stated we divided that up.

Mr. Jacob Amir stated right, but I'm suggesting that the procedural question of standing is a more liberal, gives a more liberal answer, it's a more broad allowance than the substantive argument.

Mr. David Douglas stated Mr. Mastromonaco, I'd personally find it helpful if you could bring copies to Mr. Hoch of some sort of evidence that you reside there.

Mr. Ralph Mastromonaco stated no problem. I would have brought it tonight but you said you really didn't need it.

Mr. David Douglas stated that's fine.

Mr. Raymond Reber asked any other questions from the board or the audience? Obviously we have a confusing and unorthodox, as the term was used in this situation here, and we will definitely have to study all this and try sort it all out in time, hopefully for the next meeting. I would make a motion that we adjourn case #2017-22 to the November meeting of the Zoning Board.

Seconded with all in favor saying "aye."

Mr. Ralph Mastromonaco stated thank you.

Mr. David Douglas stated it's adjourned. We'll see you next month.

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**ADJOURNED AND AMENDED PUBLIC HEARING:**

- A. **CASE NO. 2017-26**                      **Steven Auth** for Area Variances for t  
minimum landscape coverage and landscape buffer strip, and a side yard  
variance on property located at **70 Roa Hook Rd., Cortlandt Manor, NY.**

Mr. Steve Auth stated good evening.

Ms. Adrian Hunte stated good evening. So last meeting we had to put it over because there needed to be proper advertising.

Mr. Steve Auth stated right, there was an oversight for the variance from a 5 yard setback on the left hand or the southern portion of the property from 30 feet down to 25 feet and it wasn't properly mentioned.

Mr. David Douglas asked can I make a request Mr. Mastromonaco? Can, as the teacher would say, could you bring your conversation outside? Thank you. Sorry about that. We're getting an echo.

Ms. Adrian Hunte stated so at the last meeting, we indicated that we weren't going to vote because all of this is subject to Planning Board review but at that time we'd indicated that at least on the first two variances that we were leaning towards granting those and that we would leave the public hearing open and give opportunity for you to come back to show that...

Mr. Steve Auth stated we needed the notification sent out for the side yard setback, yes.

Ms. Adrian Hunte stated which you have. At that time I think we were also leaning towards agreement on that third as well based on proper procedure and advertising.

Mr. Steve Auth responded yes, that is correct.

Ms. Adrian Hunte asked at this point, are there any other comments from the audience? Anybody wish to speak? Anybody on the board?

Mr. Wai Man Chin responded no problem.

Ms. Adrian Hunte stated then on case #2017-26, Steven Auth for Area Variance is for minimum landscape coverage, and landscape buffer strip, and a side yard Area Variance I make a motion that we leave the public hearing open and that we prepare some sort of writing or memo to the Planning Board that we have reviewed the matters and that we are leaning towards granting those variances. However, it's all subject to review by the Planning Board.

Mr. Steve Auth stated Planning Board has closed my public hearing in October's meeting. They're drafting an approving resolution for November 8<sup>th</sup> meeting.

Mr. David Douglas stated so in all probability we would then, because we try to do it in coordination with them, that if they do it on that schedule, probably at our next meeting we would then do our formal vote on that at that point.

Mr. Steve Auth stated okay, I understand. Thank you very much everyone. I appreciate it.

Ms. Adrian Hunte stated I make a motion that we move to adjourn case 2017-26 with the memo as testified.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case is adjourned and Mr. Hoch if you could send that memo to the Planning Board that would be great.

Mr. Steve Auth stated thank you very much.

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**NEW PUBLIC HEARINGS:**

- A. **CASE NO. 2017-27**                      **David and Heather Fraser** for an Area Variance for front yard setback for an addition on property located at **2 Greenlawn Rd., Cortlandt Manor, NY.**

Mr. David Fraser stated good evening board. I have applied for a Variance to build a two-story, two-car garage with a mudroom area between the existing home in the garage, a mudroom area and the corner on the architectural plans impedes on the setbacks so I'm looking for an 11, I think it's 11 foot 4 inch Variance on the corner.

Mr. David Douglas stated Mr. Reber this is yours.

Mr. Raymond Reber stated this is a situation where, again, like so many placing of the house on the lot, doesn't always conform to the setbacks but in this case the intrusion into the setbacks here is minimal and certainly it doesn't have any negative impact on the neighborhood. It certainly doesn't visually affect anything. I personally have no problem with this particular variance.

Mr. John Mattis stated I concur.

Ms. Adrian Hunte stated I concur.

Mr. James Seirmarco stated I also.

Mr. David Douglas stated I would also note that the only reason you need the variance is because your lot is not a fully rectangular, it cuts out or cuts in.

Mr. David Fraser stated yes, that is the case.

Mr. Wai Man Chin stated it has that little jog that that's where the variance is required. Again, I would not have a problem with that.

Mr. Raymond Reber asked anyone in the audience needing to speak? I guess not. In case #2017-27, application by Mr. and Mrs. Fraser for a front yard setback I move that we close the

public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Raymond Reber stated on case 2017-27 a request for an Area Variance by Mr. and Mrs. Fraser of 2 Greenlawn Road in Cortlandt Manor, for a front yard setback from a required 40 feet to the proposed 11 ¼ feet for a Variance of 71.9% I move in favor of this Variance. This is a SEQRA type II and no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is approved and it's subject to your getting a building permit and any other required permits. You can speak with Mr. Hoch.

Mr. David Fraser stated I understand that. Okay, thank you very much. Have a good night.

Members stated good night.

**B. CASE NO. 2017-28 Gloria Merino for an Area Variance for the front and side yard setbacks for alterations on property located at 2116 Albany Post Rd., Montrose, NY.**

Ms. Gloria Merino stated good evening. Yes, I have applied for the Area Variance for the terrace. We bought the house like that last year. And as you can see on the plans it was built. Like we didn't do anything, change it or anything. We hired an architect because that's what they recommended us. That's what I'm here for, just to legalize that.

Mr. David Douglas stated Mr. Seirmarco, this is yours.

Mr. James Seirmarco stated yes Mr. Chairman. I drove by your property. I'm not able to walk around. Your proposal as stated in the – I have no problem with this. It's pretty straightforward.

Ms. Adrian Hunte stated I concur.

Mr. John Mattis stated I concur and I believe this was there when you bought the house.

Ms. Gloria Merino responded exactly, yes.

Mr. John Mattis stated yes, it's pre-existing. You did not build it yourself.

Ms. Gloria Merino responded no you can tell...

Mr. David Douglas stated I'll also note that there were technically two front yards in this property which makes it more difficult for zoning purposes and it was also built prior to zoning.

Ms. Gloria Merino stated exactly.

Mr. Wai Man Chin stated I have no problem with this also.

Mr. James Seirmarco asked any other comments from the audience? No other comments from the audience, I make a motion to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Mr. James Seirmarco stated I make a motion to grant the Area Variance of the front yard setback from a required 30 feet down to 20.2 and a side yard setback from a required 10 foot down to 3.2 for alterations. As a condition of this approval, applicant must obtain a building permit and any other required permits. This is a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted.

Ms. Gloria Merino stated okay, thank you very much.

Mr. David Douglas stated get the paperwork from Mr. Hoch in a few days. Okay, thanks.

**C. CASE NO. 2017-29 Colin Roosman for an Area Variance for accessory structures, a generator and propane tanks, on property located at 152 Batten Rd., Croton-on-Hudson, NY.**

Mr. Colin Roosman stated that's right. I applied for a variance because due to the nature of the zoning regulations because Batten Road curves around the side of my house, the side yard is deemed a front yard, but that is the side of the house that has good protection from the road with a nice, steep, rocky hill is the side of the house where all the electricity appears from the street. So it seemed like the best location to put the generator without the middle of the backyard or on a steep slope.

Mr. Wai Man Chin stated this is my case. Actually I drove by there and basically your house is mostly on the front yard all the way around almost.

Mr. Colin Roosman responded yes, there are roads on all four sides actually, yes.

Mr. Wai Man Chin stated I really don't have a problem with the generator on that side the way you're proposing it. It seems it's going to be covered and it's not seen by anything. Again, in the pictures that you submitted to us indicate that situation. Again, I have no problem with this.

Mr. Colin Roosman stated thank you.

Mr. John Mattis stated I agree. Legally, because of the way the road runs around, you virtually have no backyard, almost, as close as you can get to not having one and you put it in a location where it's not going to be seen pretty much by anybody. You picked a good spot.

Mr. Colin Roosman stated thank you.

Mr. James Seirmarco stated normally I vote against generators put in the front yard. This is an unusual situation. It looks like the best place for it but to be consistent, I'll vote against it.

Mr. David Douglas stated I was about to say, congratulations, this is may be the first time Mr. Seirmarco vote in your favor but...

Ms. Adrian Hunte stated I don't see any undesirable change in the neighborhood or the character of the neighborhood. There really is no neighborhood surrounding you. You have almost 360 degrees of woodland...

Mr. David Douglas stated well there's a neighborhood.

Ms. Adrian Hunte stated well there's a neighborhood. There will be no undesirable change and you don't have too many options there in terms of where you want to place this. It's not going to have any adverse affect or impact on the physical or environmental conditions in the neighborhood or the district. I don't have a problem.

Mr. Colin Roosman stated thank you.

Mr. Wai Man Chin asked anybody in the audience? I make a motion on case 2017-29 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Mr. Wai Man Chin stated I make a motion on case 2017-29 to grant the Area Variance for the accessory structure of a generator and propane tank in the front yard as the condition of this approval, applicant must obtain a building permit and any other required permits. This is a type II under SEQRA, no further compliance is required.

Seconded.

Mr. David Douglas asked can you poll the board?

Mr. Ken Hoch responded Mr. Reber; aye, Mr. Mattis; aye, Ms. Hunte; aye, Mr. Seirmarco; no, Chairman Douglas; aye, Vice Chairman Chin; yes. Carries 5 to 1.

Mr. David Douglas stated your Variance is granted and you'll get the paperwork from Mr. Hoch whenever it's ready.

Mr. Colin Roosman stated thank you.

Mr. David Douglas stated thank you very much.

Mr. Wai Man Chin stated thank you. Have a nice evening.

Mr. Colin Roosman stated you too.

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### **ADJOURNMENT**

Mr. John Mattis stated I move that we adjourn the meeting since there's no further business.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

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**NEXT MEETING DATE:  
WEDNESDAY, NOV. 15, 2017**