

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 19th, 2011*. 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 Sept. 21, 2011

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

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

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CLOSED AND RESERVED DECISIONS:

- 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 8th Street, Verplanck.**

Mr. John Klarl stated I think we have in front of us tonight a proposed Decision and Order that's three pages in length. We're going to ask in a second for a motion to adopt this Decision and Order. Essentially, what it says, it talks about the property down on 8th Street in Verplanck that is a subject of a split zoning and that is that portion of the property and the building is in the MD zone and the other portion is in the RG zoning district. It presents a problem for the applicant since when he purchased it in **1995** it had lapsed from its permitted non-conforming status. Given that, apparently he has had discussions with the Town Board and the Town Attorney wrote us a memo saying the Town Board is "not desirous of proceeding with any amendments to the Town Zoning Ordinance in the subject premises cannot be treated and used in accordance

with the existing provisions of the Zoning District.” Essentially, they have not decided to go forward, or have decided not to go forward with changing the Zoning district lines. Therefore, this Board, not having the power to adjust the zoning district lines, interprets that “the previous permitted, non-conforming use obtained by Briar Electric in **1990**, which subsequently elapsed before King Marine purchased this property in **1995**, does not allow this Board to change the lapse non-conforming use to a new non-conforming use by the applicant for the marine storage, sells and service on the applicant’s property.” That’s the proposed Decision and Order that you have before you tonight, Mr. Chairman.

Mr. John Mattis stated I move that we approve the Decision and Order on **case 11-09**.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Decision and Order is adopted.

B. Case No. 26-11 **Bojan Petek** for an Area Variance to allow an accessory structure in the front yard on property located at **28 Hollis Lane, Croton-on-Hudson**.

Mr. David Douglas stated at our work session there had seemed to be some differing views regarding what steps we should take on this application. I think we were going to talk it through today and see what the prevailing sentiment is on the Board. Does anybody have any comments?

Mr. Charles Heady responded we had a long, lengthy discussion at the work sessions, the last two work sessions really and also at the meeting here last month. Everybody has many different opinions about it and we were undecided but I think most of the Board is going to suggest that we may be in favor of it.

Mr. Raymond Reber stated just to summarize, the issue here is a shed. It’s definitely in the front lawn, way in the front which is not permitted by our Code. It was never approved. The problem is it’s been there for some **45** years and that was the difficulty. Obviously, the current owner was not responsible for this. It’s been in the neighborhood for all this time and the question is, even though legally we have the right to say “it has to be removed,” the question is: does that make sense when you consider the normal issues that we review such as impact on community, did he have an alternative, etc? Some of us feel that obviously this was not a detriment. There was never any complaints, never any concerns, nothing was ever raised in **45** years. The owner himself did not create this problem. We felt, or at least I felt, that it was somewhat unreasonable at this point to force him to remove the shed and that we should give a Variance so that that particular shed could stay. He can’t expand it. He can’t do anything with it. If the shed does ever get taken down, that’s it then there’s nothing to be in the front yard.

Mr. John Klarl asked Mr. Reber, would you be of the mind if we gave a favorable Decision and Order and put a condition in there that says “in the event the shed is taken that it cannot be

replaced?”

Mr. Raymond Reber responded definitely.

Mr. David Douglas asked anybody else?

Ms. Adrian Hunte responded I concur with that. I'd already gone on record basically saying that I didn't feel there'd be any danger to the community or damage to the environment and it was not self-created therefore, I would be in favor of it. And, subject to, if it's torn down it may not be replaced.

Mr. David Douglas asked anybody else have any comments?

Mr. Wai Man Chin responded I have to agree on this one right now. First, I had reservations about it, only because of the **45** years, no complaints and it's not actually by the existing owner. I agree that if anything ever happened to the shed that there will be no other shed allowed to be put on that spot, if it fell down or it got deteriorated. I would give this Variance based on the longevity of the shed. It's been there for **45** years and nobody complained.

Mr. Charles Heady stated I also agree with Wai with the statement he made.

Mr. James Seirmarco stated I just have one comment. The question I always ask myself is if this was not there would we allow it today? The answer comes back 100% “no.” Because it's been there a long time, emotionally it sounds like we're harassing them to have them take it down. The question, if you look at it straightforward, would we allow it today? And, the answer to that is “no.” So, I'm still on the fence.

Mr. David Douglas stated I think I said it, I don't remember if it was at the last meeting but I definitely said it at the work session, this is a very unusual situation. The shed has been here since at least **1966** and to me that's the determining factor of it. It's been there for **45** years and has not created any detriment in the neighborhood. It was there before Mr. Petek bought the property. If you go through the five factors that we look at that the majority of them seemed to weigh in favor of us granting a Variance. I think what we had talked about, this is a closed and reserved decision, we were going to direct Mr. Klarl to draft a Decision and Order reflecting the sentiments of the Board and we'll vote on it.

Mr. John Klarl stated I'm getting a sense right now, obviously there's no vote to prepare one that's favorable to the applicant. In light of the factors that have been enumerated by different Board members and the Board can look at it at the next work session and decide if they want to adopt it at our meeting or they want to adjust it in any fashion. Right now I'm going to prepare one that is favorable and we'll see from there at the next work session.

Mr. David Douglas asked and you'll add in that condition about if it should be removed.

Mr. John Klarl responded if it's taken down it can't be replaced. We often do that when we have encroaching porches. Mr. Mattis knows very well we'll do it with a porch is that if we allow a porch where you can never fully enclose it so we do those kinds of conditions.

Mr. Charles Heady stated I make a motion on **case 26-11** to adjourn it to next month.

Mr. John Klarl stated we'll have a Decision at the November meeting and furthermore, Mr. Heady notes that it's less than **62** days.

Mr. David Douglas stated so, **case #26-11** will be on the agenda for next month.

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CLOSED AND RESERVED DECISION ADJOURNED TO NOV. 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 we'll deal with that next month.

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ADJOURNED PUBLIC HEARINGS TO NOV.:

- 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 that's also been adjourned to November.

- B. CASE No. 14-11B Capurro Contracting, Inc.** on behalf of Patricia Doherty for an Area Variance for a front yard setback to rebuild a deck and for the existing front steps; and the side yard setback for the existing house on property located at **122 Westchester Ave., Verplanck.**

Mr. David Douglas stated that's been adjourned to November.

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ADJOURNED PUBLIC HEARING:

- A. CASE No. 15-11** **James Meaney** for an interpretation – does Local Law 12 of 2010 prevent the Green Materials application to the Planning Board, PB No. 28-08 filed 8/22/08, from proceeding; and does Local Law 12 negate the ZBA Decision and Order in case No. 33-08.

Mr. Pagano stated John had the birth of his granddaughter so he's occupied tonight. I had the birth of my son, two or three weeks ago.

Mr. John Klarl stated congratulations.

Mr. David Douglas stated you can tell us what you're seeking.

Mr. Pagano stated I think what our application talks about is that we had already had an approval from this Board and we were going to Site Plan Approval to the Planning Board. We had come back to you all encouraged by the Town but we came back we said that basically we didn't need an Interpretation, that we were satisfied with the Interpretation and the approval already given by this Board. Then, somehow afterwards, unbeknownst to us the Town went back without us being present and somehow had some kind of Interpretation sought, but my reading of that in laymen's term is that they withdrew it so that it doesn't have any impact. I think we were left with just an approval and we'd like to go to the Planning Board and then of course there's some questions because the Town had a Moratorium and then changed, particularly, our plan. It seemed very targeted to me but nevertheless, they did, and the question is; does that law apply to us? I would strenuously argue in the Court of Appeals as held many times that it doesn't. I think that if we could have complete our Approval process before the Moratorium was over we'd be entitled to vested rights. That's of course another day, another place, right? We would like to just move it on. We're looking to get a final determination as to our application so we can move on to possibly the next step. This is the beginning of that process.

Mr. John Mattis stated the question is when does Local Law 12 prevent them from proceeding and does Local Law 12 negate the Zoning Board of Appeals Decision and Order? And, that's what we've been wrestling with. Unfortunately, I was not at the work session so I didn't take part in any of the discussion Monday. So, maybe somebody can help me out with this one.

Mr. John Klarl responded we really didn't go into any detail Monday because we had adjourned it for a couple of months and we didn't have fresh testimony.

Mr. Raymond Reber stated question for Mr. Klarl. Wasn't this the situation where everything happened in the same week and I'm wondering whether in fact, the Town didn't actually make their decision on that Tuesday and we didn't officially make our decision until Wednesday?

Mr. John Klarl responded correct. I recall but I'd have to go back. It's some time ago.

Mr. Raymond Reber stated on that technicality, wouldn't that say then that the Local Law 12 was in place before we made our Decision and when they negate...

Mr. John Klarl responded it was – I had to go back over the time line but I remember you, at that meeting, saying last night the Town Board did the following and you announced at the meeting if I recall, yes.

Mr. Pagano stated I think it was but we had actually had our approval and we had our decision it's just I think it hadn't been written but it was given to us at our meeting.

Mr. John Klarl responded actually, I think there was a draft Decision. Before the Board could adopt the draft Decision...

Mr. John Mattis stated on the Town Board meeting on Tuesday, they passed the Moratorium and they hurried it up to Albany and in an unprecedented fashion, we had that Moratorium on our desk Wednesday so that we could not vote on this.

Mr. stated it's going to be fun in Court for the Town honestly. It's going to be very entertaining.

Mr. Raymond Reber stated but they tied our hands basically.

Mr. John Mattis stated and it specifically stated that there was nothing that was in progress. Everything was halted which usually isn't the case.

Mr. Pagano stated we already had our Approval. It had been voted on and we were given that was done and then what happened was that the Town went back and tried to get a new Interpretation of it.

Mr. Raymond Reber stated you're saying the Approval that George Liaskos – that's different. That was a different Approval.

Mr. David Douglas stated I don't think we voted.

Mr. Pagano stated no, but remember the Town came back, they came back and then we said "why are we here?"

Mr. David Douglas stated I think the sequence was that we had a meeting in which we indicated we were leaning a certain way but we didn't actually issue a Decision and Order or vote on a Decision and Order and by the time we came back the next month, the Local Law had been passed.

Mr. John Klarl stated I think Mr. Reber and Mr. Douglas's comments are both right, that there was a proposed Decision and Order, never adopted at the Wednesday because on Tuesday there was a legislation in place.

Mr. Pagano stated I'll check my file.

Mr. John Klarl stated we'll look at it. It's obviously some time ago and we don't have the old files. We're working off this new file.

Mr. Pagano asked maybe we should come back in November then and look over everything since John obviously needs to work on it?

Mr. John Klarl responded if that's the crux of your...

Mr. James Seirmarco stated we should discuss it a little further though.

Mr. David Douglas asked I want to see if I understand the essence of what you're saying. You're seeking an Interpretation that Local Law 12 does not prevent or does not apply to your application?

Mr. Pagano responded right. Even if it does, the alternative we would ask for a Variance. We'd ask for a hardship or we'd ask for...

Mr. David Douglas asked are you seeking a Variance here? I don't see that you're seeking a Variance.

Mr. Pagano responded in the alternative, if it does not apply – I'm sorry, if it does apply, Local Law 12 does apply then we're asking a Variance.

Mr. David Douglas asked I'm not sure that that was sought now. If he wants to seek that, do we need to advertise that? How does that...

Mr. John Klarl responded actually, he mentioned the Variance procedure when he was back here on May 9th of this year...

Mr. Pagano stated I was told that we could do it together.

Mr. John Klarl stated it's now been published as "does Local Law 12 of 2010 prevent the Green materials application to the Planning Board, **PB 28-08** filed August 2008, from proceeding and does Local Law 12 negate the Zoning Board of Appeals Decision and Order?" Mr. Pagano alluded to requesting a Variance application at the May meeting. If he wants us to re-advertise it to both include the relief that's on paper right now and the relief that he's just submitted to us by his testimony, we'd be happy to re-advertise in that fashion.

Mr. Pagano responded I guess yes. I thought we were going to do the alternative so let's say they are saying it's your position...

Mr. John Klarl stated right now it's not published that way.

Mr. David Douglas stated we can re-advertise and that'll be officially before us when you come back next month.

Mr. Ken Hoch asked Mr. Chairman what was the Variance before?

Mr. David Douglas responded you'd have to ask the applicant.

Mr. Pagano responded the Variance would be to permit to do what we already applied for three years ago, two years before the Law was passed or a year and a half before the Law was passed, which is what he's already been doing for the past nine years on the property. What we're asking to do on this property has been done on this property for nine, ten years. It's been done. I would also argue that because he's been doing that he actually predates the Law as a pre-existing use.

Mr. David Douglas asked before our next meeting, could you give us the application also some materials as to what exactly you are seeking in terms of the Variance and what you're asserting of the grounds because what you said may or may not be correct. It may not make sense but it's not in front of us at all.

Mr. John Klarl stated what would probably be – I'm looking our next meeting is November 16th, I think we have our work session on the 15th Ken?

Mr. Ken Hoch responded yes, I would need it at least **12** days in advance so I can get it to the newspapers.

Mr. Pagano responded by November 2nd.

Mr. John Klarl stated that would be the time frame Mr. Chairman.

Mr. Pagano stated November 2nd, okay. Because, I think the Town came back and wanted an Interpretation, if I remember correctly, from the Town. Does that include – did our Approval include the crushing not just of the concrete aggregate but other things. I remember something along those lines was the issue. I'll have to pull it out.

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

Mr. James Seirmarco stated yes, I think we talked about that, the existing concrete versus the virgin aggregates.

Mr. David Douglas stated the infamous aggregate. Do we have a motion with respect to this case?

Mr. John Mattis responded I move that we adjourn **case #15-11** to re-advertise and adjourn it to the November meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated **case #15-11** is adjourned to our November meeting.

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NEW PUBLIC HEARINGS

A. CASE No. 27-11 Kristina Knoepfel for an Area Variance for an accessory structure in the front yard on property located at **1 Peekskill Hollow Turnpike, Cortlandt Manor.**

Ms. Kristina Knoepfel stated I'm requesting a Variance.

Mr. John Klarl asked for an accessory structure in the front yard?

Ms. Kristin Knoepfel responded yes.

Mr. Charles Heady stated I was out there and talked to the applicant and she explained everything to me that she came before the Code Enforcement to get a permit to put her **12' x 20'** shed in her yard. She brought all the papers and filings, and the maps, and everything with her and explained to them what she wanted to do and in turn she got the permit to put the building in the front where she's got it and the Town found out later that there was a mistake in the writing someplace so that the man that gave the permit to her and now she's before us to see if she can get the Variance for the shed in the front yard.

Mr. David Douglas asked does anybody have any questions or comments?

Mr. John Mattis responded this is one of the cases because of the winding road where you actually end up with a side yard being a second front yard. I'm a little disturbed that somebody has to pay a fee to have to come back after the Town gives them a permit that they have to pay a fee to come back and get this corrected.

Mr. Ken Hoch stated they didn't.

Mr. John Mattis asked they didn't pay a fee?

Ms. Kristin Knoepfel responded the fee was waived.

Mr. John Mattis stated okay, that's very good.

Mr. Raymond Reber stated there would have been a problem trying to locate this in the back yard because the way the property is designed. Almost the whole property is front yard by one definition or another so they probably would have had to go somewhere and get a Variance from us regardless and this is as good a place as any. The shed is placed further back off the road than the neighboring house. There's a fair amount of shrubbery and greenery in the area there that kind of gives it some shield. I don't see this as a real problem.

Mr. Wai Man Chin stated on the map I'm looking at the shed location right now is about **36** feet from the property line and yet the house, or the closest part of the house to the front yard, is **27.21** feet. Actually, the shed is further back than the house is. Again, with the curvature of the road, and the angle of the road, and the areas of basically from the assistant building inspector – entertained that he had septic fields in certain areas that there's really no place to put it except where you have it right now. So, I would not see a problem with granting this Variance at all.

Mr. David Douglas asked any other comments? At the work session we had talked about closing and reserving this matter but do we prefer to do that or is there a reason to vote?

Mr. John Klarl responded I think you've certainly emphasized two points about the problem placing it in the rear yard because of the septic, the SSDS (Sanitary Septic Disposal System) and the problem that results from the curvature of the road. The placement seems to be the key element that would distinguish this from – you might want to take this as precedent for their own situation.

Mr. Wai Man Chin stated and the house is actually closer to the road than the shed is.

Mr. Charles Heady stated also I may say that they also had a screen in the front there by the road too so it's hard to notice the shed where it is now. It makes a big difference also.

Mr. John Klarl stated and also it involves a member of the Town workforce who indicated that they didn't quite see it the way that it should have been seen when he was out there. Distinguish it from other places.

Mr. James Seirmarco asked just one question, on the drawing it says **12' x 36'** and then it's circled it says **12' x 22'**, on the cover sheet it says **12' x 20'**, what it is?

Ms. Kristin Knoepfel responded it's **12' x 20'**.

Mr. James Seirmarco stated so those other two are wrong.

Mr. Wai Man Chin asked anybody in the audience?

Mr. Charles Heady stated I make a motion on **case 27-11** to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Charles Heady stated I make a motion on **case 27-11** to grant an accessory building in the front yard.

With all in favor saying "aye."

Mr. David Douglas stated your Variance is granted. Ken, you want to give your little speech? Wait five days or whatever...

Mr. Ken Hoch stated I'll give you a call tomorrow.

B. CASE No. 28-11 Troy and Jessica Atkinson for an Area Variance for the side yard setback for a new second floor addition and an existing porch on property located at **28 Cardoza Ave., Mohegan Lake.**

Mr. David Douglas stated tell us who you are and what you're seeking.

Mr. Troy Atkinson stated I am seeking a Variance for a side yard offset. I have a current structure built on my property, a one-story house and I'm looking to put an addition on a second story and that second story will encroach the **10** foot boundary, side lot boundary, by approximately **0.7** feet and it is not extending beyond the foundation or the pre-existing first floor, it is just rising up one more story. This is also to right a Variance that the previous owner did not seem to get.

Mr. Wai Man Chin stated I went out to the site quickly and looked at it. Basically, what you're going to do, is build a second floor on the first floor without encroaching it any further to the property line on the side yard and on the setback on the house and on the setback on the porch is also existing and proposed and you're cleaning up basically a Variance that was required from the previous owner. I would not see any problem with granting these Variances. They are so minor on this property.

Mr. Raymond Reber stated normally, about the only thing we look at in a situation like this where they're putting a second story on a first story is whether that second story creates any problems for the neighbors in terms of hovering over the neighbor's house or causing – I don't see such a situation here and I don't see it as a problem. As Mr. Chin indicated it's really a very small Variance so I definitely have no problem with it.

Ms. Adrian Hunte stated I agree. It's a very small Variance. It's about **7/10** of a foot on one end, **1.5** feet but also that you're not disturbing the footprint and that it's not going to overhang

and there's no real detriment or undesirable change to the neighborhood.

Mr. John Mattis stated I agree.

Mr. James Seirmarco stated I agree.

Mr. Wai Man Chin asked anybody from the audience? I make a motion on **case 28-11** to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing's closed.

Mr. Wai Man Chin stated I make a motion on **case 28-11** to grant the Variances, area Variance of a side yard setback from the required **10** feet down to **9.3** feet for a second floor addition and down to **8.5** feet for the existing front porch. This is a type II under SEQRA no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Troy Atkinson stated thank you. Have a good evening.

C. CASE No. 29-11 Andrew Shapley for an Area Variance for the front yard setback for an open porch and stairs on property located at **5 Windsor Rd., Croton-on-Hudson.**

Mr. Andrew Shapley stated I'm just here for a setback Variance from the front yard I'm putting a second story on an existing house but also adding an open porch. The open porch will be the same depth as the current steps that I have in the house now but I guess that they were outside the Variance anyway when they were built.

Mr. Raymond Reber stated at first look one would say "gee we're going for a **7** foot Variance for the porch." However, I did go out and look at the site and as you indicated there is essentially a stair platform there that you currently have and you do have a projection of an entryway so that's comes out partially also. The net result with, when you're done, you're going to go from down to **22** feet setback to the new addition, you'll be down to **20** feet **9** inches with the steps and, in fact, the neighboring house which we granted a Variance to back in **2002** – in that case we gave a very small Variance of only **2.5** feet so that a landing entrance to a deck porch could be incorporated to your entrance at your front door. The net result to that was that your house which already at the house at – we're talking **3 Windsor**, that house is **22.5** feet back which is where you'll be with this particular house when you go – you'll actually be **22.10** so you're a

little closer than the neighboring house originally was and in fact, if I could say, we did grant them permission for a small section of porch to be **20** feet back. Based on that, and looking at the neighborhood, I went up and down the street. I don't think this has any negative impact. It's consistent with what's basically on this street now so I see no reason not to grant it.

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

Ms. Adrian Hunte stated I agree.

Mr. John Mattis stated I agree. I also know that the architect is the next door neighbor so he's going to make sure you don't do anything too egregious.

Mr. Raymond Reber asked any comments from the audience? If there's no other comments then I make a motion that we close the public hearing on **case 29-11**.

Seconded with all in favor saying "aye."

Mr. David Douglas stated public hearing's closed.

Mr. Raymond Reber stated on **case 29-11** on **5** Windsor Road, I make a motion that we grant a front yard setback Variance for a porch to a setback of **22** feet **10** inches which requires a Variance of **7** feet **2** inches and a front yard setback for the new stairs which is proposed to be **20** feet **9** inches which requires a **3** foot **3** inch Variance. This is a type II SEQRA, no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Andrew Shapley stated thank you.

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TOWN BOARD REFERRAL FOR PROPOSED SIGN LAW AMENDMENTS:

Mr. David Douglas stated the Town Board has referred to us certain proposed amendments to the sign Law. We discussed at the work session that if anybody wanted to make any comments on that we would discuss it on the record here and then Mr. Hoch would incorporate any comments into a memo to be sent to the Town Board. Does anybody have anything that they want to say?

Mr. James Seirmarco stated I just have one comment, I noticed that they didn't change the fact that Variances can be granted up to **100%** and I think we do that routinely. I would like to see that the Code itself reflects a more reasonable number and a Variance of up to **20%** or **25%**. I

don't see the reason for **100%**.

Mr. Raymond Reber stated I would think a more reasonable would be **200%** so you can put those in the notes.

Mr. James Seirmarco asked pardon me?

Mr. Raymond Reber responded if you want to be more reasonable I'd say **200%** so if they want to make notes for the Town Board they can put your **25** and my **200**.

Ms. Adrian Hunte responded I'll say **150**.

Mr. David Douglas stated I think what Mr. Seirmarco said, if I heard him right...

Mr. James Seirmarco stated I'm saying be more realistic.

Mr. David Douglas stated we're saying that suggesting that we increase the normally allowed sign and then decrease the percentage to be increased from there.

Mr. Raymond Reber stated I think their case is...

Mr. John Mattis stated which would give us fewer cases.

Mr. James Seirmarco stated that's exactly correct John.

Mr. Raymond Reber stated yes but, I think the Town Board would be reticent to just increase the general sign Ordinance because there are places where you probably want to keep the signs small. This way, it gives us more control where it's appropriate you can go with the bigger signs and where it's not they're forced to use the smaller, because I think we all agree that in the more residential areas we don't want much in the way of signage. That's really what the Code is...

Mr. James Seirmarco stated we've never exercised that since I've been on the Board, never.

Mr. Raymond Reber stated well, if you think that the Town Board is willing to increase so that it fits more what we've been granting that's fine.

Mr. James Seirmarco stated they asked for comments, I gave you my comments.

Mr. David Douglas asked anybody else have any comments?

Mr. John Mattis responded I would make a comment with respect to the Town Center, I think that the Variances could be more than **100%** for a number of reasons: 1) those buildings set way back, and you want to be able to see what stores you're looking at – in a joint Board meeting that we had it was noted by the traffic committee that that's the highest incident of accidents in the

Town and that would help alleviate that. Also, it's not on the street. If you're driving down Route 6, you don't see those and I look at big signs as something that you everyday go back and forth and see – and that's what we want to be more restrictive on but once you're in a place like the Town Center and you're off the main road and you don't see it from the main road and for safety reasons – I would even entertain allowing more than **100%** there.

Mr. James Seirmarco stated John, I agree with you that there should be a difference in the Town Center. I think that the normal allowed signs should be bigger. I don't think you have to vary it by **150%** or **200%**. I think you should allowable sign dimensions should be more reflective of what's needed.

Mr. John Mattis stated I think we're going in the same direction, we're just taking it a different way.

Mr. James Seirmarco stated I agree.

Mr. Raymond Reber stated maybe what they have to do is look at it a little differently because one of the problems we have in the Town Center is you have some of those businesses have a relatively small storefront, they're pretty decent size but their storefront is small and the way the Code is written, it's based on footage of store frontage and that also creates a problem so maybe that's a way of getting around what both you gentlemen are discussing is that in those situations you've got to look at it differently. There's a number of issues here as to how you address it.

Mr. John Mattis stated the Town Center is unique.

Mr. James Seirmarco stated I agree.

Mr. Wai Man Chin stated besides the Town Center when you have a row of stores, I think it looks terrible, terrible when signs fluctuate in size from store to store to store on the same strip. I think they should be all uniform. As an architectural point of view to have signs all equal rather than this one's bigger, that one's smaller. He may be **20** feet wide and this guy may be **100** feet wide and all of a sudden his sign is **5** feet high or this guy's only **1** foot high.

Mr. John Mattis stated and that's what Mr. Reber brought out...

Mr. Wai Man Chin stated I think that's not right either.

Mr. John Mattis stated you're penalized if you have a narrow, deep building with the same square footage as a very shallow, wide building in terms of signage.

Mr. Wai Man Chin stated I think signage on areas like that should be uniform. It should be approximately the same all the way across so it reads nicely, not just up down, one guy's **5** feet and one guy's one foot. That's how I feel on signage.

Mr. Raymond Reber stated we've tried to do by using – and we voted that way using the Variance that we're allowed to try and get that consistency.

Mr. Wai Man Chin stated exactly, trying, that's why sometimes we like to give one person **100%** and the other maybe only **60%** because you have to keep that height about the same size on those constantly across that whole strip otherwise it looks terrible.

Mr. John Klarl asked are you saying to the Town Board members that you want the Town to distinguish in the gross numbers for the Cortlandt Town Center and everything else?

Mr. Raymond Reber responded well, anyplace where there's multiple...

Mr. Wai Man Chin responded well, not really, you have a strip mall, same thing. If it's an individual property by itself that's one thing but if you're a strip of a bunch of stores you don't want signs up and down, up and down. I think that looks terrible.

Mr. John Klarl stated but Jim seems to feel the only time he wants a real big sign is the Cortlandt Town Center otherwise...

Mr. David Douglas stated they can be standardized at a reasonable size.

Mr. Wai Man Chin stated I disagree with that because I can't put the Town Center over everybody else. I'm sorry, I can't do that. I think it should be – if this is going to be uniform on here on this strip or Town Center, fine. There's a strip mall on this side of Route 6 or of something else then those signs should be the same or fairly the same height that way I think it looks better. Ask the Architectural Advisory Board, I'm sure they would even say the same thing.

Mr. Raymond Reber stated now, leaning in the other direction about signs, one area where I don't know why we have to have these advertising signs out in the front of the building is when you have a professional building, a commercial building, not a storefront and you have lawyers, doctors, chiropractors, whatever, architects.

Mr. James Seirmarco stated offices.

Mr. Raymond Reber continued office space and yet they can get a sign out front and they can put up **15** names. Now, granted they are limited and they might be small print but I go to other Towns and those kinds of buildings, they don't have signs out, they have a number. They have a name for the building and they have a number.

Mr. Wai Man Chin stated this is five whatever...

Mr. Raymond Reber stated they might have a name for the building, there's such a Dempsey building and the number 202 or something like that. That's it because when you want to go to

that business, their business card, which you have obviously checked before – you don't just ride down the street just looking for somebody, it tells you, you go to this building. So, I don't know why we allow signs on those kinds of buildings where they've got all these little – because what's going to happen is people are going to slow down, block traffic as they're trying to read the sign. That, to me, is just the opposite. Retail, storefronts is one thing but office space, those type of commercial buildings, I would go the other way and say we shouldn't even allow it.

Mr. Wai Man Chin stated you go anyplace else, let's say you went down to White Plains, you're on 3 Corporate Drive over there for arguments sake. You go on 3 Corporate Drive inside there it tells you what floor to go whatever.

Mr. Raymond Reber stated they have the directory in the entry.

Mr. Wai Man Chin stated we don't need a million signs outside saying I'm in this building. It says 3, that means you're in that building period. That's your address.

Mr. James Seirmarco stated Executive Park is like that in Elmsford.

Mr. Wai Man Chin stated I know Executive Park is like that. Some areas like that, I've seen that, the little signs outside, I think it's terrible, especially office buildings. They should have the – the number 3 is the sign and that's it. Go in there, it's got a directory to tell you where you are.

Ms. Adrian Hunte asked may I make a comment concerning section **245-14** of the proposed signage Ordinance and **245-15** and **245-16** concerning billboards? It's on page **10**. **245-14** says "billboards and outdoor advertising device is prohibited; exceptions all billboards or outdoor advertising devices." I'm not sure how you define an advertising device "are hereby prohibited anywhere within the Town in zones other than manufacturing or industrial zones." And how are those defined "as of the effective date of this article." Then it goes on to say in **245-15** "any billboard or outdoor advertising device legally existing on the effective date." So, does that mean illegally ones are excluded or how do we deal with the legally ones and how do you define those as "legally existing on the effective date of this article shall be removed and discontinued within the following time periods from the date of notice provided to them." **245-14** is that only applying to anything new that's coming in and how do we define space on Route 202 where most of the billboards are located now...

Mr. James Seirmarco responded I think they'll be gone. I think they want them gone.

Ms. Adrian Hunte asked are they considered manufacturing or industrial zones? I don't know or just heavily commercial? Also, then where we talk about "fair market value on the date of removal," who's determining "fair market value?" And, what do they mean by "minimum years allowed," because should there be a maximum? When will notices be sent to these individuals?

Mr. John Klarl responded some of that reflects the way you get rid of billboards given by the Town by amortizing them so you give them three, five or seven years to pull them out.

Ms. Adrian Hunte asked I understand but why is it “minimum number of years allowed?” Somebody can say that “well it’s under **\$2,000** but I need **10** years.” It says minimum years why not max?

Mr. John Mattis responded it probably is a typo.

Mr. Ken Hoch responded no. Let me explain because I did a lot of work on these billboards. The first attempt to enact this was defective. The notices weren’t sent out properly. In order to do this the Town determined that all the billboards were worth **\$10,000** or more and all could be there for **10** years. I sent out notices, I want to say **2** to 3 ½ years ago, the first time correctly. We have about 7 more years until all the billboards will be gone.

Mr. John Mattis stated but it still doesn’t answer the question. It says “minimum years,” and if it says the minimum is **10** that means what’s the maximum **50**? It should be maximum number of years not minimum.

Mr. Ken Hoch responded that’s the way it was told to me to go back to the owners of the billboards and say “you have **10** years from this date to remove them.”

Mr. John Mattis stated but that would be maximum number of years not minimum. That word should be changed.

Mr. James Seirmarco stated that was done in Buchanan.

Mr. Wai Man Chin stated you’ve got to remember, on 202 a lot of those billboards are not in our Town.

Mr. John Klarl stated Jim, if you recall in the Village of Buchanan each different billboard had its own shelf life. Each one was tagged but that’s a typical way – there’s two things you generally do by amortizing and that’s billboards and junkyards. In Peekskill for example they did that with their junkyards in lower South Street.

Mr. David Douglas asked any other comments?

Ms. Adrian Hunte asked you gave notice two years ago for the old are we doing new notices?

Mr. Ken Hoch responded so far there are no new billboards and the only ones that the Code would allow would be in the industrial zones.

Ms. Adrian Hunte asked that’s not clear under **245-16**. It just says “each property or sign owner affected by this article,” it doesn’t say by the section so you need to be clear on when they’re getting their new notices or are they getting new notices?

Mr. Ken Hoch responded we notified them several years ago.

Ms. Adrian Hunte asked is that still good?

Mr. Ken Hoch responded yes. As a matter of fact I think I did it twice already to make sure we kept up with it.

Mr. John Mattis asked the first law was defective but the notice is not?

Mr. Ken Hoch responded no, the first notices didn't go out properly.

Mr. John Mattis asked and then the second notices – and that was three years ago.

Mr. Ken Hoch stated so now everybody's been legally notified and then we send reminders so they don't come back in two years, or eight years and say "wait a minute, you never told us."

Ms. Adrian Hunte asked so Ken, just on that fair market maybe you want to add something as to how that's being determined whether it's the Town...

Mr. Ken Hoch responded the Town determined that they were all at the maximum.

Mr. John Mattis asked then why do they have all of that? Take it out because they're not going to get new ones.

Mr. Ken Hoch responded it was easier to say "okay they're all **10,000...**"

Mr. John Mattis stated they don't have to refer to any value, just say "all of them, **10** years."

Mr. Ken Hoch stated and it only applied to the existing ones so they're all done.

Mr. John Mattis stated you can refer to all existing ones without any breakdown of any value.

Mr. Raymond Reber stated you just open up questions.

Mr. John Mattis stated and that way they can't challenge and say that it's worth less.

Mr. James Seirmarco stated I think this is pretty ball in play what they've done in other areas. It's pretty much how they do it.

Mr. John Klarl stated it's a very litigated event in given Town's removal of billboards so yes a lot of it has followed by what's been permitted by the Courts and what's not permitted by the Courts.

Mr. David Douglas asked any other comments?

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ADJOURNMENT

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

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

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**NEXT MEETING DATE:
WEDNESDAY NOV. 16, 2011**