

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, July 15th, 2015*. 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.
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 JUNE 17, 2015

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

Mr. David Douglas stated the June minutes are adopted.

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NEW PUBLIC HEARINGS:

- A. CASE No. 2015-10 New York SMSA Limited Partnership d/b/a Verizon Wireless** for a Special Use Permit for the installation of a wireless telecommunications facility consisting of a 140 foot monopole with antennas for both Verizon Wireless and the Mohegan Fire Department, together with related equipment at the base thereof in an approximately 1,500 square foot fenced equipment compound, on property located at **260 Croton Ave., Cortlandt Manor.**

Mr. Michael Sheridan stated good evening Chairman, members of the board. My name is Michael Sheridan an associate with Snyder and Snyder LLP, the attorneys for SMSA Limited Partnership d/b/a Verizon Wireless. As the Chairman just indicated, Verizon Wireless is looking to put a telecommunications utility pole at 260 Croton Avenue. It is on a property owned by the

Lake Mohegan Fire District and although the property is located in an R-40 zoning district, the property is currently utilized for non-residential purposes by the fire department. The facility will be used to enhance, not only Verizon Wireless communications in the area, but also the fire district's communications itself as they will have antennas on the top of the tower. The facility, as I indicated, consists of a monopole as well as an approximately 1,500 square foot fenced compound at the base of the monopole which will contain the equipment at the base thereof. Verizon Wireless is proposing 12 antennas with related pertinences on the tower, an emergency back-up generator in the compound, and is requesting two Variances in connection with this application: the first is a small side yard Variance as Verizon has located the equipment on the side of the parking lot close to the tree line which will help shield it from view, the second is a landscape coverage Variance which is a minor 2% Variance as the landscape coverage; the fire department parking lot and existing building has taken up the maximum amount of landscape coverage permitted under the code. Tonight, we request that the planning board open the public hearing, declare itself lead agency and grant whatever approvals it can this evening. I understand you have not received your engineers comments at this time, however, we would request an approval subject to if this board is willing to do so.

Mr. David Douglas stated Mr. Hoch, the applicant's attorney mentioned, he's seeking Variances, it wasn't advertised that way.

Mr. Ken Hoch responded I did not see that on the original plan and what we can do is, of course, re-advertise it for next month's meeting.

Mr. John Klarl stated we were planning on adjourning this anyway.

Mr. David Douglas stated right, what I'm pointing out is the way it was advertised, it was just advertised as a Special Use Permit so we wouldn't be able to vote on it and close the matter today in any event, but we weren't intending to. You're not getting delayed to an extent. At a minimum, what we'll need to do is we'll need to re-advertise it including the Variances and then put it on for next month but we can still discuss the Special Use Permit aspect. I'll turn it over to Mr. Reber.

Mr. Raymond Reber stated as usual, we get a nice package of information about the cell tower. Obviously, one of the questions that everybody always asks is: is it going to help in terms of coverage and you've provided us the data. That whole area apparently on Croton Avenue over through Walter Panas school property and over to Pitney Driver off of -- coming up Furnace Dock, in that area, looks like areas this will allow cover so it definitely helps in that sense. Other than that, these have become pretty standard. The towers; we know what they are and how they go in. I think the key is, as you even indicated, we need the engineer's report so we can't really do anything even conditionally until -- might as well hold off until next month and then we can take care of all the issues including any Variance issues but I don't see any specific problems myself with this. I don't know if any of the other board members have issues.

Mr. David Douglas stated I tend to agree that if the engineering staff is okay with it I think we have any other specific issues on our own.

Mr. Raymond Reber asked anyone in the audience have an issue or a question about the cell tower?

Mr. Brian Stoller stated I'm actually the neighbor of this fire station at 230 Croton Avenue. I'm curious how tall are we talking about with this tower?

Mr. Michael Sheridan stated the tower is proposed to be 140 feet tall.

Mr. Brian Stoller asked and the engineering report will give us understanding of how far visibility that we can see that? Because, my actual living room window looks out at the fire station. I can see the top of the roof of the building from my living room. So, I was concerned about sight lines, property values and those sorts of things.

Mr. Raymond Reber stated I would imagine if you can see the firehouse, you will probably see some of this tower.

Mr. Brian Stoller stated I would imagine I would, yes. There's another meeting then being scheduled for next week?

Mr. Wai Man Chin responded next month.

Mr. David Douglas stated it's August 19th.

Mr. Brian Stoller stated so we'll get more information then and get a bigger understanding. Thank you.

Mr. Raymond Reber stated anyone else? If not, I make a motion we adjourn case 2015-10 to the August meeting.

Seconded.

Mr. John Klarl stated and re-advertise.

Mr. David Douglas stated and Mr. Hoch, we will re-advertise.

Mr. Ken Hoch stated yes, I just want to point out, this is an accessory structure so the setback requirement's only 6 feet, so I don't think you need a setback Variance. I'd have to look at the area coverage.

Mr. David Douglas stated so we'll advertise – if it turns out...

Mr. Ken Hoch stated we'll re-advertise.

With all in favor saying "aye."

Mr. David Douglas stated case #2015-10 is adjourned for next month.

Mr. Michael Sheridan stated thank you for your time.

Mr. David Douglas stated okay, thanks.

B. CASE No. 2015-11 Robert Gold for an Area Variance for a side or front yard setback to construct an entry vestibule on property located at **2018 Albany Post Rd., Croton-on-Hudson.**

Mr. Robert Gold stated the architect was supposed to come here so I wasn't expecting this, I'm sorry, but he basically told me to – I'm just reading off of what he wrote. Basically, I'm a dentist. I renovated a new office last year and what we've discovered is that when both patients walk – whenever anybody comes into the front door there's a big blast of either hot or cold air coming onto the front desk staff to the point that in the winter they're wearing scarves all day long and I'd like to put a little 6' x 8' vestibule or something about that size just to keep them more comfortable. It is awfully close to the property line but if you look at the plans, which I believe you should have, it's part of the Old Albany Post Road, the building is set back, probably 200 feet from the road, so it shouldn't be an eyesore or bother anybody visually. I don't know.

Mr. James Seirmarco stated I did visit the other day. I scared your receptionist. She was just going home and I looked and see where you're going to put the vestibule and I think it's appropriate. It's an unusual piece of property. You're joined by [inaudible] on one side and a paper road and so it's unusual. We understand. I have no problem with it.

Ms. Adrian Hunte stated I agree.

Mr. John Mattis stated I agree.

Mr. David Douglas stated I agree. I drive past it every single day and I didn't know that was a road so I can imagine what impact this was going to have.

Mr. Robert Gold stated I'm part of the Old Albany and New York Road, many, many years ago so...

Mr. James Seirmarco stated it's many, many years. Anybody else in the audience have a comment or want to speak? If there's nobody in the audience, I make a motion we close the public hearing on case #2015-11 on 2018 Albany Post Road, Croton-on-Hudson.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. James Seirmarco stated I make a motion on case #2015-11 for an Area Variance for a front yard setback for a vestibule addition, the side yard setback required is 10 feet, existing is 9.9; proposed is 3.16 feet and the Variance required is 6.84 feet; about 64%. Front yard setback required is 30, you're talking about 9.98 feet; again 3.16 feet and that would be 26.84 feet or a Variance of 89%. This is a type II SEQRA no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated Variance is granted. You can tell your architect that you didn't need him.

Mr. Robert Gold stated thank you very much.

Mr. James Seirmarco stated he can't come in until next Tuesday for any paperwork.

C. CASE No. 2015-12 Danny Porco/NY Fuel Distributors LLC on behalf of NY Dealer Stations LLC for Area Variances for the maximum allowed business wall signage and the maximum total allowed signage on property located at **1208 Oregon Rd., Croton-on-Hudson.**

Ms. stated good evening ladies and gentlemen of the board. My name is Maria Ceccaci. I'm with Catapano Engineering. We represent Danny Porco and NY Fuels. I'm sure you've all past this Shell station. They're putting up a new canopy right now that we went to the Planning Board last year for. This Variance, I believe, is just for the signage on the canopy. They added a small Shell logo sign and I think you have the plans in front of you. That's going to be on either side of the canopy so it can be seen from people coming up-and-down the road. They're also changing out the existing ground sign, price ID sign to an LED sign which is becoming popular for people to see coming up and for them to change the numbers.

Mr. Wai Man Chin stated this is my case. I have no problem with what you're asking for. The only problem I have is that it was built before it was approved.

Ms. Maria Ceccaci stated they did put the sign up on the canopy last week when they finished it.

Mr. Wai Man Chin stated right.

Ms. Maria Ceccaci stated I know that because they called me after they did it and they said "is this a problem?" and I said "just a little one." They weren't supposed to do it. The contractors did it while they were there and when Danny Porco arrived at the site he was like "you've got to

take it down.” But, it kind of would have damaged everything if they took it right down so they just decided to leave it up. I apologize for that because they knew we were having a hearing.

Mr. Wai Man Chin stated if that happens again, we’ll make it go away. Again, I didn’t have a problem with such a small percentage, it’s less than...

Ms. Maria Ceccaci stated I believe it’s a 25 square foot increase.

Mr. Wai Man Chin stated it’s a small percentage of what we usually give for signage so I have no problem with this.

Mr. Raymond Reber stated the net increase is really only 6 square feet because some time in the past to accommodate for the sign requirements of the standing signs at gas stations, a Variance had been granted for this site which covered 21 square feet of this total Variance. So, it’s really only a 6 foot increase. As Mr. Chin said, I also don’t see a problem with this.

Ms. Adrian Hunte stated I don’t see a problem either but I do have to ask whether these are sea scallops or bay scallops.

Ms. Maria Ceccaci stated whatever kind of scallop you would like them to be.

Mr. John Mattis stated good answer.

Mr. James Seirmarco stated I would like to see them 10% smaller.

Ms. Maria Ceccaci responded 10% smaller? I can’t do anything about that, sorry.

Mr. James Seirmarco stated I’m not sure of that. The code is very, very clear about this. It’s clear and succinct and the other part of the code is that because we’ve had problems in the past with this, we’ve asked people, it’s in the code, it’s written in the code; please do not install the sign until a representative from the town comes out and measures it. Again, this is a problem, it was put up now we’re supposed to feel bad that it’s up and it’s too big. I actually don’t feel bad. I actually think that what sells gas is that little sign that says ‘\$2.87’, whether it says ‘Shell’ or ‘Sunoco’ or any other, I don’t think it makes a difference.

Ms. Maria Ceccaci stated well I think that the canopy sign makes it more visible to cars coming down the road because before they had the canopy they weren’t really even that visible as you drove down the road. All of a sudden you knew there was a gas station there. I’ve come up and down here...

Mr. James Seirmarco stated I don’t think that you’d be able to tell 6% bigger or smaller to the eye.

Ms. Maria Ceccaci stated and I have to say that it’s a standard size that they make these at.

Mr. James Seirmarco stated that's the problem. I think that somebody says: pull it off the shelf, this is standard size, let's just throw it up and it will get right through the Zoning Board and I take offense to that.

Ms. Maria Ceccaci stated this is the smallest one that they possibly have for their canopies because we've done other canopies for them and they also have the Shell wording next to them and then a lip bar around it so this is minimal. They went for the actual logo rather than the verbiage and all the illumination as well, because that was in the mix to put up the lettering, the channel letters that normally go on the canopy.

Mr. David Douglas stated I agree completely with Mr. Seirmarco. The town has rules about the amount of signage that's permitted. As to the price signs, I understand that I believe motorists what they care most about is not the Shell logo or the Mobil logo...

Ms. Maria Ceccaci stated I don't think...

Mr. David Douglas stated let me finish, and with the price signs I agree, and we, in the past have given a number of Variances so that the price signs can be bigger, but it seems to me what you're seeking to do here is no different than what many people come in here saying they want to do. They just want to have their advertising be bigger and more, and more visible and the town has certain standards about signs and over the years we have granted many Variances for signs at the Cortlandt Town Center and sometimes in other locations with a clear idea that the Cortlandt Town Center is different. I don't always necessarily agree with that but that's the majority view on this board. Personally, I see absolutely no reason why signs should be allowed to be substantially bigger than the town code permits in this location. It can be very easy – everything can be achieved if you have one of these pectens. What brings it over is because there's two. If there was just one you'd be within the allowed signage. It seems to me that it wouldn't be harming the owner in any way and you'd be within the code. You've got your price sign the way it is and you have one of these logos and the drivers go around and they see there's a gas station there, they see what the price is: that's what they care about, and they know it's there and they see the Shell logo which gives the corporate benefit. I see no reason why we should grant a Variance.

Mr. John Mattis stated I disagree with my esteem colleagues who do not favor this.

Mr. David Douglas stated well not so esteem colleagues.

Mr. John Mattis stated it does put us in a bad position when you already put it up and stuff but we have to look at it as if it wasn't there.

Ms. Maria Ceccaci stated I completely understand.

Mr. John Mattis stated when we look at this, the code allows 40 square feet, you want 67 but really you're going from 61 to 67 because as Mr. Reber said, it was already approved in 1986 I believe, to 61 square feet. So, you're really going up about 10% from what's there. The total Variance is 67.5%. The town allows up to 100%. We have given up to 100% in the past. This isn't larger than anything we've ever given but Mr. Seirmarco made an argument against himself when he said "well, you can't tell the difference whether it be a slightly smaller or slightly larger" so to leave it at the 67 square feet, you really can't see. If you look at the 5 tests: it doesn't change the neighborhood, it's not egregious, there's none of these problems or anything else and so for that reason I'm in favor of this.

Mr. James Seirmarco stated I just want to answer to say one thing. It's already, before the additional 6 feet, it's already 61% over.

Mr. John Mattis stated no, it's 21 square feet over...

Mr. James Seirmarco stated no it's not.

Mr. John Mattis stated it's 61 and they're allowed 40.

Mr. James Seirmarco stated let me finish. It's 61 from the first Variance and now it's going to be even bigger. Just because it's going to be just a little bit bigger, you say "well it's just a little bigger." No, you have to look at the whole aggregate total. It's 67% bigger, not 6 feet bigger or 6%...

Mr. John Mattis stated of what the code allows but it's only 10% bigger than what was there before so I look at it differently than you do.

Mr. James Seirmarco stated it's semantics, right.

Mr. Wai Man Chin stated anybody in the audience? I'm going to make a motion on case 2015-12 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Wai Man Chin stated I make a motion on case 2015-12 to grant the Area Variance for the size of a business wall canopy sign from an allowed 29 feet to 35 square feet and an Area Variance of the total maximum signage on the site from the allowed 40 feet to 67 square feet. This is type II under SEQRA, no further compliance is required.

Seconded.

Mr. Ken Hoch asked Mr. Reber; anything, Mr. Mattis; aye, Ms. Hunte; opposed, Mr. Seirmarco; no, Chairman Douglas; no, Vice Chairman Chin; yes, Mr. Heady; yes. Motion passes 5 to 2.

Mr. Wai Man Chin stated but check the code before they put up signs.

Mr. Charles Heady stated that's for sure.

Ms. Maria Ceccaci stated that's my job. That's what I did. Thank you.

D. CASE No. 2015-13 Robert Kost for an Area Variance for the side yard setback to legalize an addition on property located at **111 Highland Dr., Cortlandt Manor.**

Mr. Steven Basini stated good evening Steven Basini, architect for Mr. Kost, the applicant. Before we begin, I understand there was a question of whether or not my client had posted the sign on front of the property notifying the neighbors of this meeting. I can assure you that the sign did go up the day he received it from the town. I assume once Mr. Hoch gets the site plan up there I will be able to show you, but basically he owns two lots. He owns lots 15 and 16. It's all part of 111 Highland Drive. The lot is actually triangulated in the corner into the stream area and onto the left of that or to the south of that, when you see the site plan that is where his house is located. In between where the driveway is shown there, the left side of the driveway or the southernmost portion of the driveway and the southern corner of the property in the front yard, there are bushes there, there are a few trees there, it's vegetated in the front. Where Mr. Kost, it was put in the right-of-way, you can see there's a sizable right-of-way there in front of his property line. He put it there. A few days later he kept picking it back up again because as you know those little spindles are very thin and the ground's very wet and it kept blowing into the street. Trucks were driving by and blowing off -- someone actually complained that it blew up onto their windshield. So, ultimately he picked it up and looked for a better spot. There is no better spot in that front of the yard because it's all shielded by trees. He moved it down to the right of the driveway onto his other parcel there, right where that right-of-way becomes thinnest and he put it right there on the property and it's been there ever since. I realize that coming down Highland from where most people did and turning into the driveway it wouldn't be visible but for the neighbors driving back-and-forth on Highland it has been visible. I don't know if there's an issue with going forward with the meeting.

Mr. Charles Heady stated I was out there. You went to the town to get the permit to -- the application I should say, right?

Mr. Steven Basini asked I'm sorry?

Mr. Charles Heady stated you went to the town to get the application to fill it out for the Variance you need?

Mr. Steve Basini responded he applied for the Variance and it was called back to say that the sign was ready.

Mr. Charles Heady stated he gave you a yellow sign and you're supposed to put it up. Am I right?

Mr. Steve Basini responded a white sign I believe it is but...

Mr. Charles Heady stated a yellow sign.

Mr. Ken Hoch stated it's yellow.

Mr. James Seirmarco stated a yellow...

Mr. Steve Basini stated is it yellow? I'm sorry a yellow sign, yes.

Mr. Charles Heady asked when did you put it up? He never put it up. He put it up now?

Mr. Steve Basini responded that's what I was explaining. I'm sorry, the sign went up the day he received it from the town. You may have been out there. I did hear there were some people out there. I know you have the site plan in front of you there. It was originally located right in front of the house in the right-of-way, but it kept blowing it down. Cars and trucks were going by; it was pulling out of the wet soil. He picked it up and couldn't find a better spot in the front of the house because there's all trees and bushes there; it would have been hidden, so he took it down to the other parcel, lot 16, which is all part of the same address and put it right where the right-of-way narrows, right above the D in Highland, essentially, a little bit over, between the two Ds in Highland and Drive. That's where it's located and it still is.

Mr. Charles Heady stated I was there Friday and I didn't see no sign.

Mr. Steve Basini stated I think maybe what happened is, and I know it can easily happen, is if you come down Highland Drive and pull into his driveway, you're stopped in front of the house, you don't see it. If you drive by Highland Drive...

Mr. Charles Heady stated I went in there. I walked around the whole house.

Mr. Steve Basini stated I have a photograph if you're interested in seeing where it's located but it definitely is up there.

Mr. Raymond Reber stated excuse me, we had a work session Monday and Mr. Heady had mentioned that he didn't see a sign so I drove out there yesterday specifically looking for the sign going very slow. I just barely saw something yellow as I'm going down the street. I had to go down to the end of the street, turn around, come back, stop and look, down and basically in a hole was the sign. To me, that was unacceptable. Maybe it looks like that now or whenever you took the picture but when I went by that sign was almost buried in a hole, you could hardly see it and if it wasn't for the fact that I was actually looking desperately to find it I would have never seen it. To me, put it on the fence. Put it someplace where people can see. Neighbors are

supposed to know what's going on and not have to search for a sign so from my point-of-view, from a practical point, I don't think it was made conveniently visible so that the neighbors know specifically it was there.

Mr. Steve Basini stated in the client's defense, he picked it up himself and if I'm understanding there were instructions at the time of where to put it or how to place it, but he did...

Mr. Raymond Reber asked what do you think the purpose of having big yellow sign was to make it obvious for people to see it?

Mr. Steve Basini responded Mr. Reber, what I'm saying is his first attempt the first few days he had it was directly in front of the house and was in the right-of-way and trucks and cars driving down that hill, they go down fast and they blew it off a few times. He picked it up from the street...

Mr. Raymond Reber stated tie it to the fence, or do something so it's visible but I mean we go through the trouble of having these big signs made specifically so that they're very obvious so that no neighbor can come by and say "well, I didn't know they were going to try to do this or do that." That's why they're there.

Mr. Steve Basini stated I understand. Is it the remainder of the board's opinion...

Mr. David Douglas stated it seems to be that if there's an issue about the sign – the purpose of the sign is that it be visible. I don't think anybody's accusing your client of trying to put something over the neighbors but the reality is that the whole purpose of it is that it's visible so that people in the neighborhood are aware that there's a hearing and that something is being sought and they can have an opportunity if they want to find out what's going on and to participate. My inclination would be that we push it back a month to next month so that the public has the ability to – because if people who were going out there, the members of the board going out there specifically looking for the sign, because we always do look for the sign because that's sort of the number one prerequisite and if members of the board couldn't find it, then the other members of the public who don't know to look for it...

Mr. Steve Basini asked can I make a plea in this case? If you look at the site which is part of the argument as far as visibility and effect on the neighborhood, this is cornered. There is no other lot within 100 feet to the other side. There would be nobody impacted by this Variance except for the one...

Mr. Raymond Reber stated the subject is not the Variance. We're not debating the Variance.

Mr. Steve Basini stated I understand that but it's also the same thing as far as what the neighbors would be impacted by this or who would really care in this instance; there's nobody but one house because there's a stream behind and you can't see it and there's only one house there which is up for sale as well.

Mr. David Douglas stated it might be the neighbors wouldn't care. It might be they do care but the point is that this is a public meeting and the public is supposed to be aware of it and we've got an Ordinance which requires signs so that neighbors are notified...

Mr. Steve Basini stated I'd like to show you the pictures and if Mr. Kost would like to speak on his behalf.

Ms. Adrian Hunte stated those are procedural issues...

Mr. David Douglas stated this is just procedural...

Ms. Adrian Hunte stated not substantive and for us to get to the substantive, we need to make sure that the procedure was...

Mr. Steve Basini stated I understand but I also believe it's an opinion as far as what's down in the hole...

Mr. John Mattis asked when were those pictures taken?

Mr. Steve Basini responded I asked him to take them this morning when I talked to Mr. Hoch.

Mr. John Mattis stated that was this morning but he see them when they were supposed to be up...

Mr. Steve Basini stated I have a picture from last week as well.

Mr. Raymond Reber stated we're not here to debate the Variance specifically because we've got to get over this issue of the public notice but when you say it has no impact, this is an aerial photograph of the house, there's a house right next door, very close. We don't know whether that house whether they feel there's a sound problem or there's a visual problem. Maybe they need some...

Mr. Steve Basini stated I believe there may not be anybody living there. I believe it's a foreclosure and it's up for sale.

Ms. Adrian Hunte stated I don't think we need to get into this.

Mr. John Mattis stated that's not our issue.

Mr. Raymond Reber stated that's not our issue. We just need to give the public a chance.

Mr. David Douglas stated we're not going to debate anymore about the merits of whether somebody is here or not but the town has a requirement of giving notice. There's a question as

to whether the proper notice was given so I think what the board would like to do is we're going to adjourn it until next month.

Mr. John Mattis stated this is an existing addition so I don't know what the hardship is to wait for a month.

Mr. Steve Basini stated the hardship is it's on the market for a few months now and originally when the client found out that this was – he didn't actually do this addition. He didn't do the renovation. He didn't do anything on it. This is 23 years old this renovation...

Mr. David Douglas stated I'm going to tell you that what we're going to do is we're going to put it off until next month...

Mr. Steve Basini stated you asked me what the hardship was so that's all I wanted to express.

Mr. David Douglas stated and a request for next month, try not to cut people off. It goes smoother if people don't get cut off, okay.

Mr. Steve Basini stated well I was speaking to his behalf and I was cut off...

Mr. David Douglas stated and you just cut me off also. It's better if we try not to cut each other off.

Mr. Steve Basini stated may I make one last statement or is not...

Mr. David Douglas stated you can.

Mr. Steve Basini stated in response to the hardship question, that's all. I understand there's nothing I'll be able to do that, you asked about a hardship. It's been on sale for a couple of months now. A few months back when he determined from the Building Department that there was no C of O on this, it was basically an inherited thing, which I know was not buyer beware situation. He inherited it 23 years ago. Someone did this work. It's on a 1979 survey. He went through the proper channels to legalize this. I met with the Building Department and it wasn't until just before the deadline of this meeting that we had been notified that it had to be put onto the agenda for this. In the process of people coming in and asking for the Building Department: is this house okay? I want to buy it. I'm going to make an offer on it. Several people in the Building Department expressed and said that "no there's an issue on it and it's probably going to take several months to resolve." Those buyers left. There is a hardship because of this, it's already been notified by the Building Department and the town that there's a hardship on it and now this is just another month and the season is gone; it's going and it's gone and that's why. I know there's nothing I can do now but I'm answering your hardship question.

Mr. John Mattis stated we've had cases where we've had problems like this before and you can do a closing and have an escrow subject to if we turn this down there's money there to take it off.

Mr. Steve Basini stated I understand the financial issue is not your concern but I was asked. May I clarify, where exactly would you like it now? You've seen the site. I just want to make sure it's there where it needs to be. There's the fence there. There's the guardrail. I don't want to make any errors.

Mr. Raymond Reber stated as I said, maybe just bound it on the fence.

Mr. Charles Heady stated you should put it up by the road.

Mr. Raymond Reber stated on the fence, tie it to the fence if that works...just so it's very visible. You've got to make sure that somebody drives by and they don't have to look for it; it's there "wow, look at that big yellow sign!"

Mr. Robert Kost stated can I ask then that after I get this up, because I did put it up right in front of the house...

Mr. Charles Heady asked when did you put it up?

Mr. Robert Kost responded I put it up as soon as I got it, the day I got it.

Mr. Charles Heady stated I went Friday and I went around the whole house and I couldn't see no sign at all.

Mr. Kost stated sir you didn't see a sign but Mr. Reber said he saw a sign but that was too far down.

Mr. David Douglas stated I think we're going around in circles. We're going to get to the merits of your application next month. Why don't we just move on, okay? This is how we handle things when there's a question about whether there's been proper notice to the public. We err on the side of caution to make sure the public's been fully notified, that's what we've always done since the signs have been required to go up and that's what we're going to do this time. We're not trying to be unfair to you we just want to be fair to the public and this is how we handle things.

Mr. Robert Kost stated okay. Can I get a member of the board to check and make sure my sign's okay?

Mr. David Douglas responded you can talk to Mr. Hoch about it.

Mr. Robert Kost stated okay.

Mr. Charles Heady stated I make a motion on case 2015-13 to adjourn it until August 19th.

Seconded with all in favor saying "aye."

Mr. David Douglas stated so you'll be on August 19th. Thank you.

E. CASE No. 2015-14 **Charles Braue** for an Area Variance for the total square footage of accessory structures to allow for the construction of a ground mound solar array on property located at **5 Hale Hollow Rd., Croton-on-Hudson.**

Mr. David Douglas stated I apologize if I've mispronounced your name.

Mr. James Glover stated thank you Mr. Chairman, members of the board. My name is James Glover. I represent the contractor Fransozo Energy Solutions. This is my sister Janet Glover who specializes in holding up the billboards.

Mr. David Douglas stated if you want, I don't see an easel, but you want to lay it on the chair or put in front of the podium. Sometimes there's an easel here but I don't see it.

Mr. James Glover continued this relates to the installation of a 40 panel ground mount system in the back of the Braue residence using 4,300 watt LG panels, 2 inverters behind the array that would be ground mounted in the back of their yard. The proposed array would be directly in back of the house, about 40-50 feet back. The array would actually be behind the house on a hill section that would be virtually invisible to the street and to the neighbors because they're surrounding woods and the setback is very far back. This would offset 90% of the Braue's usage; it would also eliminate 7 tons of carbon on the environmental front. They've been approved by ConEd for the inner connection and NYSERTA with a grant through Governor Cuomo's upon 2112. The existing slope of the yard is about 13 degrees plus or minus the array: would have a slope of about 20 to 25 degrees. The issue is we're seeking an area Variance from the board with regard to the footprint. I believe it's a 50% statute that says that any accessory structure, which is a solar ground mound is considered an accessory structure, so we went through the calculations in the engineer; in measuring the usable square footage of the house it's 2,975 square feet, that excludes the garage and any unfinished areas so a 50% would be 1,488. If you look at the existing pool and the solar we would be 2,673 square feet; approximately 90%, just under 90% of the usable area of the house so we are seeking a Variance for the additional 40% which in square footage is 1,185 square feet. With regard to other items on the property, their well is in the front west of the house and the septic system is on the front east of the house. We do have documentation supporting that as well. We were advised by the Code Enforcement that the only way that we could get this and the only feasible place to put it is in the back of the yard because of the trees on the sides in the front that would make the solar efficiency very unrealistic for the Braue's. In using our shading tools we found that the most ideal location was in the back, it was a higher elevation; it was set back and it would also meet NYSERTA's 80% efficiency standards in order for them to receive the grant. With that said, I'm here to entertain any questions or issues; try and clarify any points for you.

Mr. James Seirmarco asked what's the overall height of the array?

Mr. James Glover responded in terms of the grade, because the grade is also on a slope, it's only going to be about 3 feet, 4 feet over and above that height. There are shrubs and other items around the surrounding area which would make it very less noticeable. We've actually done two similar systems. This one we did in West Harrison, New York where the owner put lattice, not for any specific reason other than to keep animals out of there and he put some shrubbery around this. This is another system that we did here in Cortlandt Manor. That was done about a year ago; similar structure. The owner decided not to put any accessory – and interestingly enough, that is exactly the same dimensions and a very similar slope. As you can see, the visibility is very – it's not a big structure because it follows the grade of the existing hill.

Mr. James Seirmarco asked and the total lot area – I'm just asking questions to get it on the record.

Mr. James Glover responded yes sir.

Mr. James Seirmarco asked how big is the total property?

Mr. James Glover responded total property: 2.6 acres. I mean the specific numbers: we have a two-story building about 1,500 square feet per story. The array itself is only 875 feet and that's looking at it from a bird's eye point-of-view. The shaded footprint is probably more about 700 square feet because of the tilt, yet the tilt is continuous with the tilt of the existing grade as well.

Mr. John Mattis stated this is my case here. This is the second one we've had like this. We had a webinar on this that some of us saw on -- was it late last week Ray? Municipalities are starting to deal with these. They're not structures in the classical sense. While you want to protect the neighbors and everything, you certainly don't want to tell people they can't get more efficient energy sources. We kind of look at these a little differently and try to do what we can to mitigate everything but it seems like you've pretty much mitigated everything. It's way back on the property. Although you're way over the allowed, it's two structures: one is an in-ground pool that you don't really see because it's ground level and this is only 3 or 4 feet high and it's on the slope anyway and it's way in the back of the property. So, with those things in mind and extenuating circumstances, neither one is an accessory structure in the classical sense and I think you've done a good job of locating it and I don't see that there's any real problem with this.

Mr. James Glover stated thank you.

Mr. Raymond Reber stated and it's a big lot, as it was mentioned too, I mean you look at the lot coverage and it only represents 2.4% because of the giant lot that you have. I don't have really a problem with what you're asking for but I am confused. My confusion is, in the application we have a letter, Mrs. Glover, you signed a letter representing Fransozo Energy but that's all it says Fransozo. Setting that aside, we get the application and the filing and we see that what we're dealing with is not Fransozo but a different organization.

Mr. James Glover responded oh yes, Green Hybrid Energy Solutions?

Mr. Raymond Reber stated yes. Who is the town and the applicant actually dealing with? Who's got the contract?

Mr. James Glover responded Fransozo Energy Solutions is the contractor of record. Green Hybrid Energy Solutions is a pre-existing entity that had the NYSERTA licensing and so Fransozo Energy Solutions could get there and NYSERTA licensing. So, in effect, Green Hybrid is the subcontractor under Fransozo Energy Solutions.

Mr. Raymond Reber asked so it's not a division of Fransozo Solar, this is a true subcontractor?

Mr. James Glover responded yes sir.

Mr. Raymond Reber stated so, it's a little strange too because I don't know. I'll ask our Code Enforcement but usually do you deal with the subcontractor or do you deal with the prime contractor?

Mr. Ken Hoch responded we would deal with the prime contractor?

Mr. Raymond Reber stated that's why I'm raising this as an issue. Is Fransozo the prime and if they are shouldn't they be the ones that are taking responsibility for signing off on this as a commitment? It's a question for the Code Enforcement to deal with. Like I said, I have no problem with the application itself.

Mr. James Glover responded very fair point. If required, we can rewrite the request under the Fransozo Energy Solution's name if that would make things a little clearer and more concise.

Mr. Raymond Reber stated I'll leave it up to Code Enforcement and DOTS to decide...

Mr. Ken Hoch stated that would be for the Building Permit.

Mr. John Mattis stated yes.

Mr. James Glover stated just for instance, when you pull up an electrical permit per se, the electrical license is pulled by the subcontractor so permits of an electrical nature are always pulled by the subcontractor and not the primary contractor.

Mr. Raymond Reber stated if that's acceptable to engineering and Code Enforcement, that's fine.

Mr. Wai Man Chin stated that's how it usually is; plumbers pull out their license and so forth and so forth.

Mr. Raymond Reber stated this is the only thing they're doing that's why I was a little confused.

Mr. David Douglas asked I have a question. In terms of visibility; I'm looking at the aerial and it appears as if there's three adjoining lots with the houses on them. Would the array be visible to any of those in the winter time?

Mr. James Glover responded it would be visible to 747 up in the air, and I say that only because that's really the only visibility. The 2.6 acres; the house is to the left and to the right and we probably should have shown you pictures looking east and west from the array, the trees on the side and the undulations of the hills and the fact again that this, even though it's on a 25-degree hill tilt, the ground itself is 15 degrees in of itself. It's virtually undetectable. On top of that, you have a side view of it, so at best you're seeing maybe the three quarters inch of width of the panel itself as opposed to being – and that's why I say that: the guy up in the 747 is looking down on a bird's eye view. The neighbors would be looking at a horizontal slice of the array.

Ms. Adrian Hunte asked are there any issues with refraction in terms of – you were talking about the 747, is there a possibility that the sun can reflect off...

Mr. James Glover responded that's a very good question. The panels are made to absorb light, not reflect it. They actually have a matte finish. These are black panels, black and blue panels are light-absorptive. The idea is to take all that light and its energy and pull it into the panel to generate the DC current. If we wanted to have it reflective it would be white or silver or some other – so that matte finish, similar to walls in a house. You put a matte finish so it's not shiny and bouncing back in your eyes. The panels follow that same concept.

Mr. David Douglas stated I think the members of the board are going toward approving what you've asked for but we're not going to vote on it tonight. Our intention is to close – it's called close and reserve so we can have a written decision. The reason is, is that as mentioned at the outset, not sure it was mentioned at the outset or not, but this is sort of an issue that towns and our town have been getting to deal with and we want to tread very carefully and we want to make sure that our rationale is made clear as to why we would grant one as opposed to another. There's a question as to whether this is a true accessory structure in the sense of other accessory structures so we just want to have our decision in writing rather than just an oral vote.

Mr. James Glover stated understood.

Mr. David Douglas stated I think we're leaning toward – officially we're not going to vote tonight but I think we're leaning toward granting it.

Mr. John Klarl stated application is going to lead the parade, applicants...

Mr. David Douglas stated we had one earlier this year and you're the second this year and there's going to be many more.

Mr. James Glover responded understood. Actually we have one more coming so would it help then if we worked out with Mr. Hoch and the Code Enforcement any issues with respect to whether it's a contractor or the subcontractor?

Mr. Raymond Reber responded we can even decide from that, that can be worked out but we can always approve conditional on any review by the DOTS Department.

Mr. James Glover asked so that would require us to coming back in a month or is that something that would be like a notification from the board in writing?

Mr. David Douglas responded the game plan, actually we have to close the public hearing first; we have to ask if anybody wants to be heard but our intention is to have a decision next month.

Mr. Raymond Reber stated but there'd be no discussion. We're going to close the public hearing tonight so it's just a formality of taking a vote.

Mr. John Mattis stated I think you see which way it's going.

Mr. James Glover responded understood.

Mr. John Mattis stated the fact that, as I said, these are not classical accessory structures and there may be times when we say 'no' which we wouldn't like to do but if it's totally offensive -- but we want to make sure that each one of these is written up properly. So, we want to make sure that our attorney has time to write this up uniquely so that somebody else doesn't come in and say "you granted it, you have to give it to me," and we say "well, these were the conditions." We're really trying to protect the town in this and protect the applicant.

Mr. David Douglas stated coincidentally, right when we were voting on the last I happened to make a trip to Pennsylvania and I drove past literally massive fields of solar panels and it made me particular weary of giving the blanket okay just across the board, much as I'm an environmentalist.

Mr. Raymond Reber stated my only concern is if we just unilaterally pass the grant the 79.6% Variance, somebody comes in with an R-10, little postage stamp lot and he wants to plop one of these down in his yard and basically you know covers half the yard and they say "but it's only an 80% Variance," we'd have a problem with that. That's why we have to make sure we document this properly.

Mr. James Glover stated understood.

Mr. James Seirmarco asked any comments from the audience?

Mr. Wai Man Chin asked anybody in the audience would like to speak on this?

Mr. James Glover stated thank you.

Mr. John Mattis stated on case #2015-14 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. John Mattis stated and I move that we reserve our decision. We have 62 days but I'm sure we'll have it by next month.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the matter is closed and reserved.

F. CASE No. 2015-15 John A. Lentini, architect, on behalf of Thomas and Violet Budington for Area Variances for the side and rear yard setbacks for an existing accessory structure, a shed, on property located at **35 Helena Ave., Mohegan Lake.**

Mr. John Lentini stated good evening Mr. Chairman and members of the board. I'm here with Thomas and Violet Budington who are asking for a Variance for an existing shed that was put up about 20 years ago. The exact time, we tried to determine, may not even make a difference. It shows in Google images down to 2004 and I suspect some of the images I saw earlier but in any event, the shed was put up without permits at a time when he didn't believe he needed permits and it wasn't until now that he's in the process of selling his house that it came up as needing a Variance. It is shy by 18 inches to the rear yard and 22 inches to the side yard; 4 feet's required and he has 2.2 to the side and 2.5 to the rear. Mr. Budington sought to get his neighbor's opinions. In fact, got two neighbors: one behind him and one in front of him to sign a statement, it's not addressed to anybody but could I provide this to the board?

Mr. Wai Man Chin stated this is my case also. I'd like to say that it's very, very small Variance and it seems like the neighbor behind you has a shed there.

Mr. John Lentini stated all the neighbors, they all do.

Mr. Wai Man Chin continued pretty close to your shed.

Mr. John Lentini stated there's another one that's not shown on this survey that's also right on the line. They're good neighbors.

Mr. Wai Man Chin stated I think it's very diminimus. I really don't have a problem with this.

Mr. David Douglas asked can I ask a question since you just handed this to me? Are either of the people who signed this the neighbors who have the other sheds that are right there on the line?

Mr. John Lentini responded one, number 3557 is the one behind...

Mr. David Douglas stated so he's in favor obviously, that's what I suspected.

Mr. John Lentini stated I actually hesitated on actually giving you that because it was a little self-serving.

Mr. John Mattis stated one of the things we normally do in a case like this, we had one on Sunset and we required a survey which we do have here so that's not a problem.

Ms. Adrian Hunte stated I don't have a problem with it.

Mr. James Seirmarco stated I don't either.

Mr. Raymond Reber stated the concern; someone might say why do we even bother worrying about these types of setbacks. The concern is more to the owner with these three sheds because I noticed you do have a chain link fence running down that property line and the question is if you have a problem with maintenance or if you want to paint it or whatever, it's getting pretty tight in there. The whole purpose of having a little bit of a setback is so that you can get in there and get a little maintenance. Like I said, that's your problem, not ours to do the maintenance and obviously your neighbors have managed to get even closer or about the same distance so I guess you can't really say it's a real issue.

Mr. David Douglas asked I've got a question. We're supposed to look at these as though they're not there, right? Isn't that the basic principle?

Mr. Wai Man Chin responded basically.

Mr. Raymond Reber responded yes, and we would not approve this in that case.

Mr. David Douglas asked would we approve this if it weren't there?

Mr. Raymond Reber responded no.

Mr. Wai Man Chin stated probably not.

Mr. David Douglas stated that's my problem.

Mr. John Lentini asked can I make a comment?

Mr. David Douglas responded yes.

Mr. John Lentini stated if it were a different case I would be here with a hardship and the hardship we have isn't effective but for instance, it's the only place on the lot that it can go or it's working in conjunction with something else. In terms of architectural it seems that it's almost appropriate that there's a little cluster of sheds in itself.

Mr. Raymond Reber stated I also want to make a note, this is not a little shed which is the other thing that bothers me a little bit too because we're talking about, I think a 12' x 24' basically the equivalent of a garage and I assume that is not on the records, there was never a Building Permit or anything Ken? This has been an illegal, significant sized building set there. Somebody was playing games here and it's unfortunate. Not much we can do about it but – and I don't like it when it's referred to as a 'little' shed. It's a garage. In people's minds 12' x 24' is equivalent to a standalone single-car garage.

Mr. John Lentini stated in defense of the Budington's though, I've lived up here for 22 years and I noticed an increase and unfortunate, that at one time a lot of things didn't require – I believe I came to the Building Department in the '80s and asked for a permit to do something and was told you don't need it. I did take a permit out to do my extension on my own dormer, over a year and I went back to renew the permit and they said you don't need to renew it. Things have changed.

Mr. David Douglas stated but this is the '90s, you said 20 years ago...

Mr. Wai Man Chin stated no, 30 years ago.

Mr. David Douglas stated when this was built was 20 years – I think you said it was built 20 years ago.

Mr. John Lentini stated 20 years ago.

Mr. David Douglas stated okay, that's the '90s and that's not ancient history in terms of enforcement.

Mr. Raymond Reber stated I bought a home in 1966 and I know back then, and my neighbors have known over the years as we've put up structures and additions and sheds, you had to go to the town and get approvals. I don't buy that argument that it's a relatively new thing.

Mr. John Lentini stated I do a lot of this work and I've noticed an increase in business in the last 10 years, since 9/11 actually I saw the biggest jump that things that were ordinarily not even looked at became very important. At the time, I mean I'm sure if they realized that they would have gotten a permit. It wasn't that they were trying to get away with anything.

Mr. Wai Man Chin asked anybody in the audience? I make a motion on case #2015-15 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Wai Man Chin stated I'm going to make a motion on case 2015-15 to grant the Area Variance for the side yard setback from an allowed 4 feet down to 2.5 feet and the rear yard setback from 4 feet down to 1.8 feet from an existing shed. This is a type II under SEQRA, no further compliance is required.

Seconded.

Mr. David Douglas stated I'm opposed, if you can poll the board?

Mr. Ken Hoch responded Mr. Reber; aye, Mr. Mattis; yes, Ms. Hunte; approve, Mr. Seirmarco; yes, Chairman Douglas; opposed, Vice Chairman Chin; yes, Mr. Heady; aye. Motion passes 6 to 1.

Mr. John Lentini stated thank you very much.

Mr. David Douglas stated you can get your Variance on Tuesday, get the papers from Mr. Hoch.

G. CASE No. 2015-16 Jeffrey Rothfeder for an Area Variance for the front yard setback to construct an addition on property located at **1426 Washington St., Cortlandt Manor.**

Mr. Jeff Rothfeder stated Mr. Chairman, members of the board, we're putting up an addition in the yard that's coming off an existing porch and we found during the preparation for it that where – I guess, I don't have the exact numbers but I think we're currently set back from the road 48 feet and you guys probably have...

Mr. Raymond Reber stated 42.

Mr. Jeff Rothfeder stated 42 feet and we have to be 50 right, so that's why I'm here for the Variance. We're not getting any closer to the road with this than we've been. I bought the house 10 years ago. It was already existing at 42 at that point.

Mr. Raymond Reber stated I went out to the house, of course there was nobody there during the day. As you state, you're just extending the same line of the house that's currently there so you're not encroaching any closer to the road and this is common. We usually do approve these as long as there's no other encroachment on the side or what have you but you're by yourself up there. You have no neighbors on either side and also you're up on a ledge that's at least 20 feet

above the road so people don't even notice it and I don't think they'll even realize that you changed that part of the house. I have no problem at all with this Variance.

Mr. Jeff Rothfeder stated thank you.

Ms. Adrian Hunte stated I concur.

Mr. John Mattis stated I agree.

Mr. James Seirmarco stated I agree.

Mr. Raymond Reber stated I could ask for the audience but there is no one out there. I'll make a motion to close the public hearing on case 2015-16 for 1426 Washington Street.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed.

Mr. Raymond Reber stated I make a motion on case #2015-16 for 1426 Washington Street for a front yard setback Variance from a required 50 down to 42.1 feet a 7.9 foot Variance equivalent to 15.8%. This is a type II SEQRA, no further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated it's granted.

Mr. Jeff Rothfeder stated thanks very much.

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ADJOURNMENT

Mr. John Mattis stated I move that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated meeting is adjourned.

* * *

**NEXT MEETING DATE:
WEDNESDAY, AUG 19, 2015**