

ZONING BOARD OF APPEALS
238 Main Street, Cold Spring, New York 10516

November 14, 2016
7:30 P.M.

Regular Monthly Meeting

Pledge of Allegiance

Approval of Minutes:
October 24, 2016

PUBLIC HEARING:

1. **Kristin E. Sorenson,** **TM#16.20-1-18** **Appeal # 897**
1000 Old Albany Post Road, Garrison
 - Front yard setback
 - nonconforming lot coverage area (area Variance)

2. **Kenneth Callander** **TM# 90.12-1-11** **Appeal #899**
10 Ferris Dr. Garrison
(Seeking legalization of an existing 12'X16' covered porch and an enclosed three season room both requiring a 25' side-yard setback)

3. **Wayne Scott Craft** **TM# 89.7-1-22** **Appeal #900**
100 Manitou Station Road, Garrison
(Seeking a variance for a side yard setback of 20 feet of section 175-11B of the Town Code which requires a 30 foot setback to build a 24 X 24 foot garage)

received
11/7/16 *Strawls*

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ZONING BOARD OF APPEALS

October 24, 2016
MINUTES

The Zoning Board of Appeals for the Town of Philipstown held their regular monthly meeting on Monday, October 24, 2016, at the Philipstown Recreation Department, 107 Glenclyffe Drive, Garrison

PRESENT:	Robert Dee	-	Chairman
	Vincent Cestone	-	Member
	Paula Clair	-	Member
	Granite Frisenda	-	member
	Lenny Lim	-	Member
	Adam Rodd	-	Attorney (Drake Loeb PLLC)

****PLEASE NOTE that these minutes were abstracted in summary from being present at the meeting. If anyone should seek further clarification, please review the video.**

Chairman Robert Dee - Opened the meeting at 7:30 P. M. with the Pledge of Allegiance.

Minutes

Robert Dee – Okay, approval of minutes July 11th. Are there any changes or corrections?

Vincent Cestone – I have none.

Robert Dee – You have none. no, no, anybody, no? Alright, I make a motion that we accept it.

Vincent Cestone – I second.

Robert Dee – All in favor? Aye.

Leonard Lim – Aye.

Paula Clair – Aye.

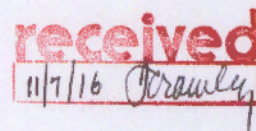
Vincent Cestone – Aye.

Granite Frisenda – abstained.

Robert Dee – Okay July 25th, anybody any changes or corrections for July 25th? I make a motion that we accept it.

Vincent Cestone - I second.

Robert Dee – All in favor? Aye.



Leonard Lim – Aye.

Paula Clair – Aye.

Vincent Cestone – Aye.

Granite Frisenda – Abstained.

Robert Dee – September 12, you weren't here. Any changes or corrections?

Leonard Lim – No.

Robert Dee - I'll make a motion to accept it.

Leonard Lim – I'll second.

Robert Dee – All in favor? Aye.

Leonard Lim – Aye.

Paula Clair – Absent.

Vincent Cestone – Absent.

Granite Frisenda – Aye.

**Public Hearing
Ezra and Carrie Firestone**

Robert Dee – Next is a public hearing for Christopher and Maria Marrison, 7 Old Manitou Road. This is for seeking a variance for a 21 foot front yard setback which requires 60 feet from section 175-11B for an addition. One question I have is, on the plans that the Architect gave us, that's not all new construction right?

Christopher Marrison – No.

Robert Dee – No. Because I looked at it and I was trying to figure out where your house was because it doesn't have it.

Christopher Marrison – So that's 9D, Old Manitou Road.

Robert Dee – Yeah.

Christopher Marrison – This is North. The red is the existing and the green is the addition.

Robert Dee – The red is the... Alright let me just pull out my thing here so I know so I'm looking at it. Okay so the red is?

Leonard Lim – That is color coded.

Robert Dee – Yeah, I know it's color coded here, right?

Christopher Marrison – Yeah.

Robert Dee – So the red is the addition, I mean red is what is existing right?

Christopher Marrison – Yes.

Robert Dee – And the other one is... so I know. Okay, because the Building Inspector had asked me. Or, you can do the same thing on the plan. Let me see that. That's what I was saying. I can tell you right now the Building Inspector is going to want it corrected. Well not corrected but going to want it...because he doesn't know because he doesn't know what is existing and what is new. you know, if you look at it without this it looks like it's all new.

Christopher Marrison – Right.

Robert Dee – Which it's not. So now I understand. You understand what I'm talking about on these plans that we have? That this wasn't...

Christopher Marrison – There's three copies there.

Robert Dee – It looked like...Oh three copies, good. It looked... It looks pretty much like the original plan it wasn't color coded. I guess so we didn't know what was existing so you corrected that.

Paula Clair – What is existing, red?

Christopher Marrison – The red is existing.

Robert Dee – The red is existing so the green is the addition. That makes a lot more sense.

Paula Clair – Okay.

Robert Dee - Because when you looked at it I said "where is the rest of the house" it didn't make any sense. Alright thank you very much. Does anybody have any questions? Does anybody want to speak on this, towards this? Okay I'll call for a vote on this. Are we ready to vote on this at this time? Alright I'll call for a roll call vote on granting the variance for a 21 foot front yard setback so you can do this extension. I'll ask for a roll call vote. Mr. Cestone?

Vincent Cestone – Excuse me?

Robert Dee – Will you vote on this?

Vincent Cestone – Yes, I will.

Robert Dee – Do you approve?

Vincent Cestone – I vote for it.

Robert Dee – Okay you vote for it. Mr. Lim?

Leonard Lim – I'll vote in favor.

Robert Dee – In favor.

Paula Clair – I'll vote in favor as well.

Robert Dee – In favor. Okay.

Granite Frisenda – In favor.

Robert Dee – And I vote in favor so it's unanimous.

Christopher Marrison – Thank you.

Robert Dee – So what happens now is the attorney writes up the resolution okay and he will present it to us next month at next months meeting November, then I'll sign the resolution and you can go to the Building Inspector and then you can start your construction. Are you all set?

Christopher Marrison – Good.

Robert Dee – Thank you very much.

Paula Clair – Linda do you have something to say?

Adam Rodd – You want the other Board member to vote?

Robert Dee – He did.

Adam Rodd – He did, so then what were you...

Linda Valentino – Don't we have to close the public hearing before we vote?

Robert Dee – Oh Yeah right. I didn't close the public hearing.

Paula Clair – Oh.

Robert Dee – I make a motion we close the public hearing.

Leonard Lim – I second.

Robert Dee – All in favor?

Vincent Cestone – Aye.

Leonard Lim – Aye.

Robert Dee – Aye.

Granite Frisenda – Aye.

Paula Clair – Aye.

(The public hearing closed at 7:36 P. M.)

Ezra and Carrie Firestone

Robert Dee – Okay Thank you. Okay next is the public hearing for Firestone, 537 East Mountain Road North, Cold Spring. Seeking an Area Variance for a side yard setback where a 30 foot setback is required. How many feet setback are you looking for on this?

Glenn Watson – Four feet.

Robert Dee – Four feet.

Glenn Watson – Let me just double check.

Paula Clair – I believe it's four.

Robert Dee – Yeah. I Don't see it.

Adam Rodd – I have 27.7 proposed and 30 is required.

Glenn Watson – Right. Yeah that's the 4 foot.

Robert Dee – Do you want to give us a little explanation here and tell us what we are looking at?

Glenn Watson – The property is owned by Ezra and Carrie Firestone it's on East Mountain Road North number 537 It's a ten acre parcel of property. They bought it about three years ago. It's already approved as a two story dwelling. They needed shelter for their car as the allocation says, they started building without a permit. They're trying to rectify that at the Building Department and it is self created in a sense because they built it to close to the line. They didn't have the line staked at the time because they estimated it and miss-estimated it. It's just that simple.

Robert Dee – It's already in place?

Glenn Watson – It's already in place. It was frankly poor judgment that went on. There was a rush to get it done over the winter. Thought they would correct the permitting business in trying to do that they

had to get the survey and discovered it was too close. So number five of the five pronged reasons can't really defend it is just really self created.

Robert Dee – It is self created, Yeah.

Glenn Watson – The other issues really has to do with the environment this is a remote location. I drove down there over the weekend. It's a long driveway. It's about 250 feet to the adjoining properties. The lots are all fairly big lots.

Robert Dee – It's a fairly big area. I looked at the area.

Glenn Watson – Nobody is going to see it.

Robert Dee – Right.

Glenn Watson – If they had to remove it, they would have to tear it down, reconstruct it three feet away, which would be obviously a lot of work. And that's really our story in a nutshell.

Robert Dee – Right they built it. Did they file a permit when they built it? No they didn't.

Glenn Watson – No they did not and frankly when they went to get the permit subsequent to it being built, they hired an engineer, Mike Carr who studied the plans, drew on the plans certified the construction including digging up the footings as I understand. So the building is fine.

Robert Dee - They did after what they were supposed to do before.

Glenn Watson – That's exactly right. Mr. Firestone goes away for the winter they needed to get some stuff under the shelter and some stuff inside. I know it's an open thing but they still need to get it under shelter. How do we get this done? Well let's take care of the permit, we'll let's get it started and we'll take care of the permit as we go along and as we go along got too far along and they finished it.

Leonard Lim – That was the end of that.

Glenn Watson – Yeah, that was the end of that.

Robert Dee – Is there anybody here that would like to speak to this? This is a public meeting, a neighbor or anything?

Leonard Lim – Do you have any photographs of this?

Glenn Watson – I do not but do you have a photograph?

Audience Member – I do in my phone.

Glenn Watson – I do have the plans.

Leonard Lim – Is there any Topo reason why you couldn't move it? Any Topography reasons, any rocks outcroppings anything?

Glenn Watson – Now or why you couldn't have built it closer?

Leonard Lim – Yeah, yeah That he couldn't build it away from (not audible) and why he couldn't move it?

Glenn Watson – It starts to get a little tight in moving around up there the closer it gets. But the fact is it probably could have been built at the 30 foot line and worked.

Robert Dee – There's no sense talking about it, If you deny it you have to take the whole thing down basically right?

Glenn Watson – So that's the front elevation you see and the left side elevation. you see some of that as you drive up. You see a little bit of that.

Leonard Lim – Is that concrete, dirt what is it?

Glenn Watson – No I don't know is it a concrete floor?

Ezra Firestone – It's concrete, I'll get a picture for you.

Robert Dee – It's all been approved, not approved I mean the Building Inspector...

Glenn Watson – The building Inspector has denied it because of the variance thing...

Robert Dee – Because of the variance but, does he have any problems with the structure is my question?

Glenn Watson – I can't honestly say I don't know the answer. I know that Mike Carr drew the plans and I am confident that he has done a very good job.

Robert Dee – Right so you would have to get back to him and he'll have to look at it to approve it?

Glenn Watson – Oh, yeah we have to go back with the variance as soon as we get it.

Ezra Firestone – I have a picture of the side of it.

Glenn Watson – This is Mr. Firestone.

Ezra Firestone – Hi.

Robert Dee – Oh, hi.

Ezra Firestone - How are you? This is sort of from the side, I don't have a picture front on but I can probably find one.

Robert Dee – But I've been up there. There is kind of nobody around.

Ezra Firestone – We're just you know, first house.

Robert Dee – There are kind of no neighbors around it.

Ezra Firestone – It's the first house, the first thing we built. We don't know what we are doing. To tell you what happened here.

Robert Dee – For now on... Now you know what to do right? I can't tell you how many people come here and they put things up.

Glenn Watson – Linda, What's your email? They can email to you the two photographs if you want for the record.

Robert Dee – Does anybody on the Board have any questions? Questions?

Vincent Cestone – No.

Robert Dee – Alright, I make a motion to close the public hearing.

Vincent Cestone – Second.

Robert Dee – All in favor?

Vincent Cestone – Aye.

Paula Clair – Aye.

Robert Dee – Aye.

Granite Frisenda – Aye.

Leonard Lim – Aye.

(Public hearing closed at 7:43 P. M.)

Robert Dee – I'll make a motion now on the vote for the side yard setback for this carport.

Leonard Lim – Second.

Robert Dee – Mr. Cestone I'll vote in favor.

Robert Dee – In favor. Mr. Lim.

Leonard Lim – I'll vote in favor.

Robert Dee – In favor.

Granite Frisenda – I'll vote in favor also.

Paula Clair – I'll vote in favor, it's such a small variance.

Robert Dee – Yeah it is a small variance and there's nobody here. So I'll vote in favor also. (not audible)

Glenn Watson – Thank you very much. So we'll get your resolution next month? (Not audible)

Robert Dee – Yeah. At the next meeting, Is that alright or are you going to need it?

Glenn Watson – That's fine.

Robert Dee – I'm now going to ask the Board we're going to take a short closed legal session. There is a question I have and it should be no more than five or six minutes. Okay?

Vincent Cestone – I'll make a motion to go into closed session.

Leonard Lim – I'll second.

Robert Dee – All in favor?

Vincent Cestone – Aye.

Paula Clair – Aye.

Robert Dee – Aye.

Granite Frisenda – Aye.

Leonard Lim – Aye.

(The Board went into closed session at 7:45 P. M.)

Vincent Cestone – I make a motion that we come out of closed session.

Leonard Lim – I'll second.

Robert Dee – All in favor.

Vincent Cestone – Aye.

Paula Clair – Aye.

Robert Dee – Aye.

Granite Frisenda – Aye.

Leonard Lim – Aye.

(The Board came out of closed session at 7:55 P. M.)

Old Business
Stephen Flavin, 51 Indian Brook Road

Robert Dee – Okay out of closed session. Okay the next item on the agenda is Steven Flavin, 51 Indian Brook Road, Garrison. He's seeking a Special Use Permit for the construction of a conforming accessory structure with an accessory apartment on a legally non-conforming lot. We had a number of public hearings on this. I don't know exactly how many but we've gone over everything that the lawyers on both sides have put forth and everybody has put a lot of time into it and looked at the site and like that. But I want to go over and make sure we complete and have everything down. We'll go over the 12 factors. The first one is findings. Number 1 - Will this comply with all land use district, overlay district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located?

Vincent Cestone – We went over that during the public hearings even though it was brought up that it was historic, it was in the historic overlay but I don't see that as a problem.

Robert Dee - Okay, does anybody else see that as being a problem?

Leonard Lim – No.

Paula Clair – No.

Robert Dee – Number 2 - Will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any public or private nuisances? Well it's going to be basically a garage with a living space above it. I don't see it as being any real noise, solid waste – there is going to be a septic tank there. Glair, or create any public or private nuisances. Anyone have a problem with that?

Paula Clair – No.

Vincent Cestone – No. There will be one car coming in once in a while.

Leonard Lim – No.

Granite Frisenda – No.

Robert Dee – Number 3 - Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing and condition, as well as any improvements proposed to be made to them by the applicant? Well this is a single driveway going into one apartment...

Vincent Cestone – I don't see any traffic.

Robert Dee – ...so I don't see any traffic safety or overloading to existing roads.

Vincent Cestone - I don't see a problem.

Robert Dee – Alright number 4 - Will be accessible to fire, police and other emergency vehicles? Seeing this is right behind Mr. Flavin's house, it's not going to be that far. How far away basically is it going to be from behind the house roughly? I'm just trying to see. A ball park?

Glenn Watson – 100 feet maybe.

Robert Dee – About 100 feet okay and pretty much have a dirt road going down there at this point in time so it will be accessible.

Leonard Lim – We all made site visits. We see they can get in.

Robert Dee – Right. Okay. Number 5 - Will not overload any public water, drainage, sewer system, or any other municipal facility? Well it's going to have its own septic system and its own well, I guess.

Vincent Cestone – It's going to have its own supplies?

Glenn Watson – That's right.

Robert Dee – Right. Number 6 – Will not materially degrade any watercourse or other natural resource or ecosystem and will not endanger the water quality of an aquifer? We went over this I think you put out a plan of the way the water drains if I recall.

Glenn Watson – We are not changing the drainage pattern. I did have a...

Robert Dee – You did have a thing up there. We went up there.

Glenn Watson - ... graphic that demonstrated that.

Robert Dee – Your drainage pattern will not be changed?

Glenn Watson – Correct.

Robert Dee – Okay. Number 7 – Will be suitable for the property on which it is proposed, considering the properties size, location, topography, vegetation, soils, natural habitat, hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads? Well I know you were talking about putting some trees up there or something like that on the side.

Glenn Watson – There is landscaping that is going to be installed between us and our nearest neighbor.

Robert Dee – Alright.

Glenn Watson – And it's done in a matter that will provide screening.

Leonard Lim – So that is not a problem if they're going to put it in the natural buffering.

Vincent Cestone – It's well wooded to begin with.

Robert Dee – I'm sorry?

Vincent Cestone – It's well wooded to begin with.

Robert Dee – I couldn't see the next neighbors house with the trees that are here now in all honesty.

Glenn Watson – Well we are adding some evergreens because probably if you went back after this weekends wind and rain...

Robert Dee – Right.

Glenn Watson -... you can see more of the house, I'm sure.

Robert Dee – With the trees and the leaves. Okay, so thanks that will take care of that problem. Let's see Number 8 – Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the town? Well the construction of it definitely is ideal. Very good construction. The design is very good definitely. I think it will blend in with the area. I don't see any problems with it. It will definitely fit into the area there are other areas in that section that are similar design. (Number 9) Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses...

Vincent Cestone – I don't think that complies.

Robert Dee -...that are incompatible with residential use?

Leonard Lim – N A.

Robert Dee – I don't see any problem there. Number 10 – Will not adversely affect the availability of affordable housing in the Town? I didn't see to much affordable housing in here so I don't know.

Glenn Watson – (not audible) Draft states neither this one or the previous one is compatible.

Robert Dee – (Number 11) Will comply with applicable site plan criteria 175-65D? We went through everything with that. With the design and the site plan and the drawings and everything like that. So I think that pretty much covered everything. Number 12 – If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts? I guess basically it isn't going to be any problem to the neighborhood or he's going to hurt the neighborhood any way.

in that I mean I don't see it unless anybody else sees any issues that this is going to be a detriment to the neighborhood. Well that takes care of the 12 points that I was looking to cover. So like I say we spent, I lost track as to how many public hearings there were.

Taylor Palmer – There were four.

Robert Dee – Four. Okay, there were four public hearings. And that includes the special one we had too?

Taylor Palmer – That was it and an additional comment period but there were no additional comments.

Robert Dee – And everyone pretty much visited the site so at this point in time I'm going to ask for a vote on either an approval or disapproval on granting a Special Use Permit for Mr. Flavin for the accessory apartment. I'll start with a role call vote. Mr. Cestone.

Vincent Cestone – I vote to grant the Special Permit.

Robert Dee – You vote to grant the Special Permit. Mr. Lim.

Leonard Lim – I'll vote to grant the permit.

Robert Dee – You vote to grant the permit. Ms. Clair.

Paula Clair – I vote to grant it as well.

Robert Dee – Okay. Granite your last name throws me sometimes.

Granite Frisenda - I vote to grant it as well.

Robert Dee - You vote to grant it. I'll say a lot of time and effort went into this okay you know and both people had concerns and I think the concerns have been covered for both the neighbors and like that and I visited both properties, I visited both neighbors like that and at this point I approve it also. So it's granted unanimously. Thank you, thank you.

Taylor Palmer – (not audible).

Robert Dee – Okay Thank you.

Kristin Sorenson, 1000 Old Albany Post Road, Garrison

Robert Dee – Okay the next order of business Kristin Sorenson, 1000 Old Albany Post Road.

Kristin Sorenson – I asked my husband to speak on our behalf.

Robert Dee – Alright hay, that sounds good to me okay. This is basically a lot line adjustment, 1000 Old Albany Post Road. I basically want to make sure we have everything so at the last meeting there was a problem with the surveys wrong. Okay go ahead. First introduce yourself, I'm sorry.

Eric Stark – I'm Eric Stark.

Robert Dee – Okay, go ahead Mr. Stark.

Eric Stark – So there's a couple of things going on here which I would like to point out to you. This is the area that we are talking about, which is a 20 foot strip which runs along Old Albany Post Road. It is right next to the lot that we currently own, Lot 48. It's a build-able lot but when the Town required Joe Tuana to recombine the three lots that they illegally subdivided and in those in-visions they created two of these flag pieces coming down in order to gain access to these lots. So they recombined those lots and they already had a driveway coming in here.

Robert Dee – Okay.

Eric Stark - And now there is only one residence down there. That sits right here. So these two flag lots were sitting down there because the lots there you didn't have access to.

Robert Dee - Because you couldn't get to them? You couldn't get to them?

Eric Stark – I'm sorry.

Robert Dee - Who owns those to lots, those two flag lots?

Eric Stark – Right now Laura Watt and Clark Thompson they're living there currently and they recombined the lot. Well actually they bought them recombined. Tuana was forced to recombine them before he sold them. So that's the configuration right now of their lots. Now incidently since the last time we were here, one of the things that we had done against our will, that in a sense we didn't want to do it. But it was our will we didn't want to do it but to prevent Tuana from going back and getting a sub-division legally in the mean time Paul Heuston who originally owned all of these lots went bankrupt and that lot came up in bankruptcy court, so we purchased that lot, this lot here. We, since our last meeting, sold this because we have no interest in building or having anything else built there. We sold this lot back to the new owners and now they have 10 acres and they have an additional 20 feet coming up the road, so they now own 40 feet up the road and 10 acres of land.

Robert Dee – Okay so you bought the lot at auction? and

Eric Stark – and then we sold it to them.

Robert Dee – You sold it to them?

Eric Stark – Back to Clark Thompson and Watt.

Robert Dee – Alright.

Eric Stark – So now they have 10 acres.

Robert Dee – So they're all legal now.

Paula Clair – Can I ask a question?

Eric Stark - They've been legal for a long time.

Paula Clair – Are those two different owners or are they is that a...

Eric Stark – No, no it's a husband and wife.

Paula Clair – Oh, okay.

Eric Stark – So they own this lot.

Robert Dee – Alright let me just stop you for a second. If they were legal why would they need to buy your lot that you bought at auction?

Eric Stark – They didn't have to buy it.

Kristin Sorenson – No he just bought it it's kind of background. They just purchased the green from us.

Eric Stark – Right they didn't need to buy it but this is a legal lot. So we could have sold it and have someone build on it so we said look we didn't buy it to build on it or buy it to... We bought it basically to conserve it to stop any further subdivisions back here so since, you know, that you have this lot would you like to buy this lot and we'll sell it to you at below that we paid for it?

Robert Dee – Okay.

Eric Stark – So I said in exchange, I would like to also have this 40 feet up here because this is no longer necessary for anyone.

Robert Dee – That 40 feet belongs to them?

Kristin Sorenson – Correct.

Eric Stark – That belongs to them, right.

Robert Dee - Okay.

Eric Stark - It's actually two...two 20 foot flags that came in. One went to a lot here down here, this was a separate lot originally, legally.

Robert Dee – Okay.

Eric Stark - And the next one came into here then this one came into here.

Robert Dee – Okay so those two twenty foot driveways were done there to try and be able to use those flag lots in the back?

Kristin Sorenson – Correct.

Eric Stark – Exactly.

Leonard Lim – So they're a right of way?

Eric Stark – No, there two driveways.

Kristin Sorenson – They're two flag lots. They're two driveways.

Leonard Lim – They're two side by side driveways?

Kristin Sorenson – They're two side by side driveways.

Eric Stark – Two side by side driveways. In order to create a legal lot illegally when they did the subdivision they put in these two 20 foot lots... 20 foot driveways. So in trying to rectify all this after years and years, we've been sort of working on this problem for years since we bought this 10 years ago. We said "here you know you guys are great, we love you as neighbors. Do you want to buy this? We'll give it to for what we paid for it well actually below what we paid for it. Give us these 40 feet and that allows this lot to be bigger". Now as I say we bought this lot also. We didn't intend or want to buy this lot but when all this went down we were so forced to buy it because suddenly they were talking about building a five bedroom house there and putting it right in the middle of the field when we were told right along by the original developer, Paul Heuston, that this was going to be kept, you know, un-built, well it was not going to be built in the field anyway that all changed. So we were forced to buy this and we paid a lot for it. So if you add this 40 feet to it we will probably elect to build on it for ourselves or have someone else build on it in order to divest ourselves of it because we paid \$400,000 for it. And you know while it's not worth that today it represents a lot of money to us.

Robert Dee – Alright but the lot is build-able as is?

Kristin Sorenson – Yes (not audible).

Eric Stark – It is build-able as is. It's a legal lot.

Robert Dee – Okay so what would this lot line change, I mean it would just make the lot 40 feet wider?

Kristin Sorenson – It would expand it by 40 feet that's it.

Robert Dee – But it has nothing to do with the build-able?

Eric Stark – It doesn't make it more build-able.

Kristin Sorenson – It just increases by 40 feet that's it.

Eric Stark – It just makes it wider by 40 feet, that's all it does.

Robert Dee – Okay. You should be talking.

Kristin Sorenson – It's a long story I know.

Eric Stark - Okay, what it does do is they actually created... when they were doing all the shenanigans really. They actually put a driveway there I mean an entry way. So our driveway comes down and then there's a driveway here.

Robert Dee – Right.

Eric Stark – So if we were to build here it does actually make the lot more conforming than what it was.

Kristen Sorenson -bigger by 40 feet.

Eric Stark – It does allow the driveway to be there it allows the house, if we were allowed to build a house there, to be moved further away from our house or more. Here it just makes the lot bigger basically. And because it's an unnecessary lot anymore because there is only one lot here and there's a pre-existing driveway and additional 20 feet here.

Kristen Sorenson – Sweetheart, can I just ask something?

Eric Stark – Sure.

Vincent Cestone – I just want to ask a question. Then why are you here?

Robert Dee – Yeah?

Kristen Sorenson – Because we need you to agree to do this.

Eric Stark - Because we need you to approve this. Because...

Robert Dee – Why?

Kristen Sorenson - That's what we were told.

Eric Stark - Because we're not a conforming lot.

Robert Dee – You said it was conforming. You said you could build on it.

Glenn Watson - You need a variance for a frontage because the back lot is going to have less frontage which is already non-conforming.

Eric Stark – Right, right.

Glenn Watson – Technically you need a variance for the frontage.

Kristin Sorenson – We went to the...

Eric Stark – the frontage requirement is 35 feet. If they lose this 40 feet then they technically have 20 feet although they gained another 20 feet so technically...

Robert Dee – I don't understand that at all.

Leonard Lim – I'm lost.

Robert Dee – You lost me completely.

Eric Stark – The frontage requirement is 35 feet.

Robert Dee – The frontage requirement for what? That piece of property...

Adam Rodd – Maybe I can just make it clear.

Robert Dee – That would be good.

Adam Rodd – A flag lot as I understand it and just jump in if I am wrong. The top lot, the top where that fronts on Old Albany Post Road...

Robert Dee – Right.

Adam Rodd – We'll call that lot 48.

Eric Stark – Right.

Adam Rodd – And the lot below it, that is lot 49 correct?

Eric Stark – Right.

Adam Rodd – And the lot behind it is now one lot right? That's, I understand it is 50.1 Correct?

Eric Stark – Correct.

Adam Rodd – That's a flag lot meaning it's flag shaped.

Eric Stark – Right.

Adam Rodd - And the only access was either through the top part of 48 or adjacent to the bottom part of 49 right?

Robert Dee – Alright but he has access already to that right?

Adam Rodd – But the thing is with the flag lot the code says you need a minimum of 35 feet for the access road frontage on a flag lot, that's what the code says you need a minimum of 35 feet. So by what he's doing as I understand it.

Robert Dee – I'm lost. I'm lost.

Adam Rodd – This is the flag lot.

Robert Dee – But it's not a flag lot anymore because he just turned it into a big piece of property.

Adam Rodd – It's still a flag lot because it has access going that way and access that way.

Robert Dee – Alright but he just bought that piece of property correct?

Adam Rodd – He bought this here.

Robert Dee – Now did he conjoin that property to the other property?

Eric Stark – He didn't?

Robert Dee – He didn't, why not?

Kristin Sorenson - (not audible)

Eric Stark – Because frankly he couldn't afford to buy it so we gave him a mortgage.

Kristin Sorenson – He's paying us a mortgage.

Eric Stark – So he's paying us back over time and we...and he's already got a mortgage on his house. So in order for him to add this to his property we would have to become a second mortgage and we didn't want to do that. So we...

Robert Dee – Is the piece of property he bought from you, right there, he has a mortgage on it buildable?

Kristen Sorenson – Yes.

Eric Stark – Yes.

Robert Dee – Now you really have me confused. Okay because if he bought it from you with a mortgage, he can sell it right?

Eric Stark – He could technically.

Kristin Sorenson – Can I ask something?

Leonard Lim – Are trying to build on lot 48?

Eric Stark – Eventually yes.

Kristin Sorenson – Let me just...(not audible)

Leonard Lim – So this whole thing is to build a house on lot 48?

Kristin Sorenson – Her house, her house.

Eric Stark – We can build there right now with or without this.

Leonard Lim – So what is this extra 40 feet that you're talking about?

Robert Dee – What do you need it for?

Kristin Sorenson – Can I just interject for a second?

Robert Dee – Sure.

Kristin Sorenson – We've spoken to our neighbor down below and he's happy to make the trade.

Robert Dee – Right. I understand that, but what I'm trying to say here is... What we're saying is...

Kristin Sorenson – Because at the end of the day why does it make sense for him to own this little slice of property? We own this, he owns this.

Robert Dee – That's a build-able lot, he can turn around and build a house there.

Kristin Sorenson – Excuse me?

Robert Dee - He can turn around and build another house there, that piece of property that you sold him right?

Eric Stark – He could if he wanted to that's not entirely true.

Kristin Sorenson – But we already discussed it with him and he said as part of our deal to buy this from you we'll be happy to give you that piece up there.

Leonard Lim – Okay so you want to add that 40 piece to your piece?

Kristen Sorenson – Yes, we want to add that piece to our lot.

Eric Stark – We need a variance, We need two variances...

Adam Rodd – Just to be clear here on the two variances the first one is the 35 feet right? So by selling him, taking that lot to 48 you are eliminating, I think it was, like 42 feet wide and 353 feet long.

Eric Stark - Correct.

Adam Rodd – So that is now going to be part of 48.

Eric Stark – That's right.

Adam Rodd – So the question is, and I had a question about this, so with respect to the 35 feet how much are you proposing for frontage? In other words the back lot 50.1 now it's going to have a certain narrow frontage on...

Eric Stark – 50.1 will now have technically only a 20 foot entrance right here. It has a paved driveway coming down and it is only 20 feet wide.

Robert Dee – That's not technically, that's what it's going to have right?

Kristin Sorenson – That's what is has currently.

Eric Stark – That's what it's all going to have because they haven't... we've been told by them that they plan on combining these two lots together. They don't want to build in front of that lot either. They're Artists, They have there studio here.

Robert Dee – But they don't have to.

Eric Stark – huh?

Robert Dee – They don't have to, that's my point. They could sell it.

Eric Stark – They could technically.

Robert Dee – Alright, that's all I'm asking.

Eric Stark – But that's their view and it really doesn't interfere with anybody. I mean it backs into Fahnestock Park. Frankly I don't think it's a build-able lot because of slope and the closeness to the street down here.

Kristin Sorenson – (not audible)

Robert Dee – Right.

Eric Stark – If they can get a Building Permit for.

Robert Dee – A lot of stuff went on with this small piece of property.

Leonard Lim – What do you want a variance for?

Paula Clair – Can I ask where's your lot? Which one is your lot?

Leonard Lim – What lot do you want the variance for?

Paula Clair - Which one is your lot?

Adam Rodd – They need a variance for...

Leonard Lim – One person please. One person.

Kristin Sorenson – I'm sorry. We live here.

Paula Clair – You live here. Okay.

Kristin Sorenson – And we own this.

Paula Clair – And you own this.

Robert Dee – and you own this.

Paula Clair – and you own the top one.

Eric Stark – We have a lot at stake here.

Paula Clair – Okay.

Eric Stark – And we need a variance so we can add this to our lot 48 and because it's a non-conforming lot we're not allowed to increase it by more than 5%.

Robert Dee – Right.

Eric Stark – Which this is a significant increase this is like a 15% or 17% increase in the size of that lot even though it's only 40 feet wide and 350 feet long. But it represents 15% of this lot.

Paula Clair – So this will allow you to build on this lot right?

Robert Dee – No he can build a house on the lot without that.

Eric Stark – We can build on the lot already.

Kristen Sorenson – It just gives us more room.

Eric Stark – It just gives us more room to build it.

Kristin Sorenson – It enables us to site it in a way that would be better for the neighborhood and us.

Paula Clair – Okay.

Robert Dee – I guess maybe we can put the rest to public hearing because I'm a little confused I'll be honest with you and I would like to do a little more research on it. All we're looking at tonight is to see if there is enough here for us to go to a public hearing. That's all it is.

Eric Stark – Really?

Robert Dee – Oh yeah, do we have enough or do we need more to go to a public hearing. This is not the public hearing.

Leonard Lim – to go to a public hearing. We're trying to figure out what you're asking for.

Eric Stark – Am I clear about what I'm asking?

Robert Dee – No.

Kristin Sorenson – I think you gave too much background.

Robert Dee – No you're not clear.

Adam Rodd – I think just to simplify on the road frontage, jump in if I'm wrong, the variance which you need is really for the back lot. 50.1. in other words they're eliminating... You need 35 feet right? You need 35 feet of road frontage.

Leonard Lim – He's got 20.

Vincent Cestone - With the bottom one too.

Leonard Lim – It's the top one.

Adam Rodd – You're getting rid of this lot had access to the orange part.

Robert Dee – Okay.

Adam Rodd - The orange part is now going to be absorbed in 48.

Robert Dee – Okay.

Adam Rodd – So, you're eliminating that. So you're taking away that? I think it was 37 feet.

Robert Dee – Right.

Adam Rodd – Jump in if I'm wrong. I'm going by your plans. I want to make sure that you all understand it. So what he's proposing now is the variance of the road frontage for this part there.

(not audible)

Robert Dee – That would be the 20 If we denied that the guy can't get into his house.

Paula Clair – No, the guy can get into his house.

Eric Stark – This is the original sub-division.

Robert Dee – Believe me, I'm trying to understand this. This is not a joke to me.

(not audible)

Paula Clair – It's hard to see.

Kristin Sorenson – Sweetie, I think you should take that down.

Leonard Lim – He wants to increase a non-conforming lot so he needs a variance for that.

Eric Stark – Right.

Adam Rodd – Yeah, basically on a flag lot the way the code is written is on a flag lot the minimum lot area has to be three times the size of a regular lot in that district for a flag lot. So by giving that small sliver it's a lot easier if you look at that first map.

(not audible)

Adam Rodd – By getting rid of that sliver this orange sliver belongs to that back lot.

Leonard Lim – Yeah right.

Adam Rodd - So by getting rid of that orange sliver and making it a part of the front lot you're making the back lot smaller by that amount.

(not audible)

Kristiu Sorenson – Let me just make it clear that the person below has access to his house, it's a paved driveway, There is only one house down there and he currently enters into his house through this driveway, no problem. There's no problem accessing that lot what so ever. So in other words these people that are currently living there never use this up here.

Eric Stark – It's not a driveway,

Kristin Sorenson - It's just land.

Eric Stark – Vacant.

Kristin Sorenson – It's just sitting there land.

Paula Clair – So this additional piece is access...

Robert Dee – Let's get it to public hearing.

Paula Clair – This one has access to this lot, right?

Kristin Sorenson – They have access all the way down here.

Paula Clair – No access to the lot that you're...

Kristin Sorenson – Right here, yes.

Paula Clair – Yes.

Kristin Sorenson - That will provide us access to this lot.

Paula Clair -Right that is what I mean.

Kristin Sorenson - Should we decide at some point...

Paula Clair -Right.

Kristin Sorenson – ...to build on it.

Paula Clair -Right.

Kristin Sorenson - Currently they are not using it.

Paula Clair -Right.

Kristin Sorenson - They do not intend to use it.

Paula Clair -Right.

Kristin Sorenson - And they have agreed...

Paula Clair -Right.

Kristin Sorenson - In our obligation you will see they agreed to make this swap with us so they are completely in favor.

Paula Clair -And you have access...

Kristin Sorenson - We have access to our property.

Paula Clair -...through the bottom of the road.

Kristin Sorenson - We have access here to where we live and we also have a little access here to our garage. So we live up here and we never go down there and we own both these properties and this is

something that we would like to conjoin. So we own up here and they own down there. It's just to keep them separate.

Adam Rodd – Just so we're clear on the numbers then. So you're really here for two variances? One is for the road frontage.

Kristin Sorenson - I guess that's what we need is here.

Robert Dee - and you might need a survey or someone to answer this because if we write a resolution we're going to have to know exactly what the footage is. So in terms of...

Eric Stark – It's in our proposal.

Kristin Sorenson - It's in our proposal.

Adam Rodd – On the swap we're fine. On the back lot right you're getting rid of that 42X (not audible) foot...

Kristin Sorenson – Right.

Adam Rodd - So the question is I assume because we were sent by the Planning Board that the road frontage that you're proposing for the back lot 50.1 is less than 35 feet.

Eric Stark – That's correct.

Kristin Sorenson - That's correct.

Adam Rodd – The question is what is it? How many feet is it?

Eric Stark – It's exactly what that is.

Kristin Sorenson - What ever that distance is. So I guess we can get that for you.

Adam Rodd – You would have to get the exact (not audible).

Eric Stark – It's right there it's 20.01 feet. It's on the survey.

Adam Rodd - Okay so it's 20 feet.

Kristin Sorenson - Correct.

Eric Stark – 20 Feet.

Adam Rodd – Okay so you are proposing a 20 foot variance on the road front?

Kristin Sorenson – Correct with the... You should have the knowledge that they just purchased the adjoining 20 feet. So it is really 40 feet assuming that that they will combine that into their property.

Robert Dee – But that is somebody else's lot.

Adam Rodd – At this juncture has the 50.1 lot been included (Not audible) green?

Kristin Sorenson – No

Adam Rodd – So we are just going on the lot as it is?

Kristin Sorenson – On the lot as it is today.

Eric Stark – They haven't conjoined those two lots.

Adam Rodd – Right so we are not going to be and we can't decide something that hasn't happened. So you're asking for a variance for the road frontage on the existing 50.1 lot.

Eric Stark – Correct.

Adam Rodd – And you are also seeking an Area Variance because by lot 50.1 giving that orange area allowing that lot to be a little smaller.

Eric Stark – Right that lot will be smaller and the other lot will be a little bigger.

Paula Clair – But that lot is 10 ares now, right?

Adam Rodd – Will actually...

Robert Dee – he didn't combine it.

Adam Rodd – No it's not.

Robert Dee - No he didn't combine it.

Eric Stark - He owns 6 acres now they own another 4 which does make it 10 but as it has been pointed out by Adam Rodd it hasn't been added in yet.

Kristin Sorenson - And we don't know when...

(Not Audible multiple voices)

Eric Stark – We didn't want to take a second mortgage to their bank if they added in...

Robert Dee – Oh, so this is a two part thing basically, is that what you're saying?

Eric Stark – Well it's one part.

Adam Rodd – Well it's two variances.

Robert Dee – Two variances right.

Adam Rodd – Two variances.

Robert Dee – Okay the two variances are what?

Adam Rodd - Area variance for 50.1 and road frontage for 50.1.

Robert Dee – Okay, so if we turned down road frontage for 50.1 and we grant the other one what problem does that cause?

Adam Rodd – They kind of sink or swim.

Robert Dee- Together, they kind of have to be approved together other wise one doesn't work without the other is my question?

Adam Rodd – In by giving this orange piece Right?

Robert Dee – Right.

Adam Rodd – To this lot you're making the back lot smaller.

Robert Dee – Correct.

Adam Rodd – It's not that complicated all their doing is this lot taking on that orange piece and as a result their going to need a road frontage variance and technically a lot size variance because the back lot is getting smaller by that amount.

Robert Dee – but that is further down the road. That's not with us?

Adam Rodd – Well basically this is a referral from the Planning Board and they went to the Planning Board and they said we want to do a lot adjustment Correct?

Eric Stark – Correct.

Adam Rodd - And the Planning Board looked at it and said well that's all well and good because by eliminating, by doing that lot line adjustment you would need a road frontage variance because they need 35 feet and they have 20. And you would need an Area Variance because the code says flag lots technically have to be three times the size of a regular lot in the district. So even though this is a large lot it is what, six acres?

Robert Dee – Six acres.

Adam Rodd – Six acres it technically has to be under the code for a flag lot because Zoning Codes don't like flag lots generally. It says it has to be three times the size. Because 50.1 is giving that orange area to lot 48 it is making 50.1 a little smaller.

Paula Clair – So how big does the flag lot have to be?

Adam Rodd - This is in the R...

Eric Stark – 10 acre zoning.

Paula Clair – 10 Acres.

Eric Stark – If they combine, it's not combined but they collectively have 9.8 acres here so actually that is...

Adam Rodd – Well forget about the lot that hasn't been...

Eric Stark – They have six acres.

Paula Clair – They have six acres and then with the other lot you are mortgaging is...

Eric Stark – Is four acres.

Krisitn Sorenson – and that has 20 feet so in essence right now, although they are not combined they have 40 feet. So one is 20.

Paula Clair – What's the 9.8 acres? You said 9.8 acres.

Eric Stark – These two lots combined. 9.8 but as Mr. Rodd pointed out you can't...

Leonard Lim – Can we just put this up for public hearing?

(not audible multiple voices)

Robert Dee – There are a lot of moving parts here. I know that you have been dealing with it for a long time and we haven't.

Kristen Sorenson – Yeah.

Robert Dee – You have to understand that people have questions here.

Kristen Sorenson – (not audible) straight forward. We have been dealing with it for a long time, and so when we tell the story it's actually a complicated story, It is straight forward in the way Mr. Rodd presented it. We're asking for two things. We're asking for a variance for the lot size and we're asking for road frontage variances.

(Not audible multiple voices)

Robert Dee – But that doesn't say that here, road frontage variance. It says lot line adjustment?

Kristin Sorenson – Right I didn't put it in that terminology because we didn't know how to determine it that way That's what we were coached to put there.

Vincent Cestone – It says lot line adjustment.

Paula Clair – So you're asking for a variance for the flag lot?

Leonard Lim – (not audible) It just says lot line adjustment.

Robert Dee – It only says one thing here.

Kristin Sorenson – That is what we thought it was but now that we have been illuminated. Next time we'll write it up and say we are asking for two things, A lot line adjustment and I didn't know to say that nor did I know to say road frontage and it's basically a lot line adjustment.

Paula Clair – And when you take that area in red away from the other lot that's what makes it non-conforming because that's what makes it 10 acres?

Robert Dee – No, No.

Adam Rodd – No.

Paula Clair – No?

Eric Stark – Because it's non-conforming as it is at 6 acres. It's only less than a third of an acre.

Paula Clair – No I know, but if you add the other 4 acres...

Eric Stark – Interestingly yes. If you add the other four acres it would be conforming actually it would be 10 acres.

Paula Clair – Right.

Eric Stark – If you add 20 feet over here it would be conforming in terms of lot frontage too. So, but you can't really look at that at this point because they really haven't added it in yet because of the issue that we have with them having to take a second mortgage.

Robert Dee – Okay so if we were to set this up for a public hearing this would have to be changed because they are looking for two. Adam, right looking for two?

Adam Rodd – The referral for 50.1 the big lot right now as it is without doing anything is technically non-conforming because now it's not three times the size that a lot needs to be.

Robert Dee – In the district.

Adam Rodd – No we are... it's technical non-conforming because you are giving, you see that lot contains the orange part right now.

Robert Dee – Okay.

Adam Rodd – As it is existing. By giving the orange part to the front top lot.

Robert Dee – That makes it non-conforming.

Adam Rodd – It makes it more non-conforming. The back lot is already technically non-conforming.

Kristin Sorenson – According to 10 acres. It's six.

Eric Stark – And this is non-conforming.

Adam Rodd – Right it's technically...

Kristin Sorenson – You are talking about just feet.

Eric Stark – (not audible) even though there is no structure on this it's grandfathered in because we bought it when the zoning was two acres. Well I'm just trying to point this out I'm not trying to make this into a buildable lot.

Robert Dee – No, I understand what you're saying.

Eric Stark – It already is a build-able lot. We're just trying to make it slightly bigger and to straighten out the mess that was created 10 years ago when this guy subdivided this thing improperly. If we can do this it's sort of like... It resolves all the problem that we created 10 years ago legally and this will become a slightly bigger lot that is still build-able and this will become what it is. It's already what it is.

Leonard Lim – Build-able with variances.

Robert Dee – No it's build-able as it is.

Leonard Lim – It's build-able as it is.

Eric Stark – It's build-able as it is. You don't need this.

Robert Dee – They don't need that.

(multiple voices not audible)

Eric Stark – It's on this property and we sold this property and they agreed to give us this because we weren't sure how all of this was going to work. They already gave us an easement. We already have an easement on all of this land here in order to use that. I mean we can just go ahead and use the land and build on it and forget about it.

Paula Clair – Can I ask you something? The lot with the red lines, if you didn't add those red lines in, would you still have access to that lot? Would there be access?

Eric Stark - We Could put another driveway in, sure.

Kristin Sorenson - We could put another driveway in and then we would have three driveways one, two, three.

Eric Stark - They already put a driveway in here but they cut a hole and created what looks like a driveway. It's just grass and trees. Regardless of what happens here really if we do build here we have an easement and we can use that easement to get into that property.

Robert Dee - What I'm looking at here unless the attorney corrects me, is a lot line adjustment. I'm looking at the one piece that you want, you want that one 40 foot section, that's what you're asking for?

Eric Stark - Yes sir.

Robert Dee - One not two variances you're not asking for anything else?

Leonard Lim - No she just said two.

Robert Dee - I don't see two here, I don't see anything explaining two.

Kristin Sorenson - On that it actually does explain both things that we want to do. They are simultaneous.

Adam Rodd - I think we can make is simple is(not audible) the two variances they need. They need the variances for the back lot...

Paula Clair - Which they don't own, right?

Robert Dee - Right.

Kristin Sorenson - That's right we don't own.

Paula Clair - Why aren't those people asking for a variance?

Adam Rodd - They have an authorization. So it all has to do with this back lot. This back lot is giving this sliver of property to that lot. And as a result the back lot by doing that now has insufficient road frontage because that was their road frontage or part of their road frontage. And because the back lot has given some of the property to the front lot the back lot is now is a little bit more non-conforming because it has to be three times the size of a regular lot in the district and because certain properties being subtracted from it. It's more non-conforming. So it's two variances one is the road frontage.

Robert Dee - Road frontage where? Which lot?

Adam Rodd - Back lot.

Robert Dee – But there not even applying. So you're asking me to give road frontage to the other part. Well my question is you're asking me for road frontage for someone elses property that he doesn't even own.

Adam Rodd – Well you have proxies for it.

Vincent Cestone – He's acting as their agent.

Adam Rodd – It's a lot line adjustment.

Robert Dee – I understand that.

Adam Rodd – And one is owned by owner A. They have a signed proxy and he's got this, is for owner B. The issue is the back lot needs two variances with this lot line change one is you need 20 feet onto Old Albany Post Road and they need a minimum of 35. And on the Area Variance by giving away a sliver of land they're making their pre-exisiting non-conforming lot a little smaller. So it's two variances.

Paula Clair – And even when they get the four acres that you're mortgaging to them they will still be non-conforming?

Eric Stark – When they get the four acres and they add them in they will be conforming. They will be conforming.

Paula Clair – They will be conforming?

Kristin Sorenson – Then they will have 10.

Eric Stark – They will have 10 acres of land and they will have 40 feet on the road.

Paula Clair – They will? Okay they have six acres...

Eric Stark – They have six acres currently they bought four acres. Even with this.

(not audible)

Paula Clair – Even with loosing this?

Eric Stark - They'll have 10 acres, a little bit less.

Kristin Sorenson -It will be conforming once they combine the two lots. They would have 10 acres.

Paula Clair – would they have 10 acres. I think they're at 9.8.

Kristin Sorenson – It's 9.8

Leonard Lim – It's not 10.

Eric Stark – No it's true they would be at a little less.

Leonard Lim – It's 9.8 not 10.

Eric Stark – It would be non-conforming, that's true.

Paula Clair – They would be allowed to have that because they are non-conforming prior to Zoning?

Leonard Lim – (not audible).

Kristin Sorenson – You sell non-conforming lots all the time it's just a question of whether or not you're willing to have it 9.8 or whatever. And again that is down the road that's not something we are here to talk about today.

Eric Stark – When they go to add that in no one is going to object to that. It eliminates a lot and it increases the size of their lot. (not Audible) They basically said you would have to go before the Planning Board to do that. They basically said we'll do this we're happy to let you do this lot line adjustment but you have to go to the Zoning Board because you need two zoning variances to do that. We agree with what you're doing but you can't do it without Zoning Board approval.

Robert Dee – Alright I am going to set this for a public hearing for the next meeting which will be November 14th. I'll be honest with you, I have to look at it a little more because I'm still confused but we'll set it down for a public hearing.

Eric Stark – Is there anything I can say that will (not audible) to help you understand?

Robert Dee – No I just. I understand it but there is just a lot of moving parts in it for me. We are giving a variance for basically... I understand the lot line change with the orange part, I have no problem with. I have no problem with that.

Eric Stark – Right.

Robert Dee – The other end to the other persons property I just have a little confusion with that.

Leonard Lim – So it's on for November 14th.

Robert Dee – So that's going to make him... He's still going to have to come for a variance for the driveway right?

Eric Stark – No sir, he already has a driveway. He has a paved driveway that is it goes down this 20 foot strip and goes down to his house. Next to it is an empty 20 foot strip that was the flag that went to this lot. So when we sold him this lot he gave another 20 feet on the road no now he owns, he actually owes, they're not conjoined but he actually owns 40 feet, 20 feet of his original driveway and an additional 20 feet that we sold him with the flags. So now he's got 40 feet down here and he's got 10 acres down here. They're not joined up yet because...

Adam Rodd – Without laboring the point when you come back November 14th, forget about that lot that's in green talking about it. That is not going to be part of lot by November 14 correct?

Eric Stark – That's right sir.

Adam Rodd – Again it makes it more confusing. So you're eliminating the top part of road frontage and proposing 20.

Eric Stark – 20.

Adam Rodd – And you need 35.

Eric Stark – Correct. That's it for tonight.

Robert Dee – Okay. Alright there will be a public hearing.

Eric Stark – Do we need to bring anything else with us when we come back? I mean is there any information that you need that we don't have here that you will need for the public hearing?

Robert Dee – Does anybody need anything else?

Eric Stark – We want to make sure that we bring everything back.

Kristin Sorenson – Or can somebody help us explain this so it doesn't make it so confusing?

Eric Stark – Mr. Rodd explained it perfectly.

Kristin Sorenson – Yeah right.

Robert Dee – Well Mr. Rodd may have explained it perfectly to you but I'm having a little issue okay.

Eric Stark – I understand.

Robert Dee – Okay, thank you.

Kristin Sorenson – Well we're clearly not explaining it well.

Robert Dee – No, I understand a lot line change, I did a lot line change myself. I bought a piece of property next to me so I understand what you're talking about. It was a little confusing there seems to be a lot of parts. Whose selling to who. Whose selling what. There's just a lot of things going on. that I'm not 100% sure about.

(not audible people taking over each other)

Eric Stark – This is now, this is actually irrelevant.

Kristin Sorenson – (non audible)

Robert Dee – It's not irrelevant if you're looking for a variance.

Kristin Sorenson – We would like to get on with it. The bottom line I would like to leave you with is that our neighbors, our adjoining neighbors are totally happy and that ultimately if we can explain this better you will see that it is pretty straight forward decision and then you can see how you want to handle it.

Leonard Lim – Do you have correspondence?

Paula Clair – I just want to understand one thing, Mr. Rodd said you are asking for a 15 foot variance and you need 35 right? On the bottom?

Eric Stark – He needs 35 feet and if he gives us this he will only have 20 which is a 20 foot driveway that he already has, a paved driveway, this is not a driveway this is just empty land.

Paula Clair – Okay so the variance that you're asking for is for his lot correct?

Kristin Sorenson – Correct.

Eric Stark – Correct. For his lot. We're his proxy because he gave us the right to do this because he said here, you can have this but you guys have to deal with (non audible)

Paula Clair – Is there any other variance that you are asking for besides...

Eric Stark – and the other variance is because this lot is non-conforming. Technically undersized for him to give us this strip here. His lot now becomes smaller and more non-conforming and therefore we need a second variance for him for his lot to become smaller.

Paula Clair – Does he need a variance to become non-conforming?

Eric Stark – Yes.

Paula Clair – He does?

Eric Stark – Yes.

Robert Dee – Now we're not putting that in there are we Mr. Rodd?

Adam Rodd – Yeah. You're making a non-conforming lot a little smaller.

Robert Dee – So it's three?

Granite Frisenda – No it's two.

Adam Rodd – The lot line change is going to cause the lot to be a little smaller. The lot line change eliminates the 35 feet of road frontage they now only have 20.

Robert Dee – Okay.

Adam Rodd – And the back lot will become a little smaller and that needs a variance because it's already technically preexisting non-conforming because it's a flag lot.

Robert Dee – Okay.

Paula Clair – Okay so in other words the reason that they don't have 35 feet of road coverage, if they no longer have that top road?

Eric Stark – When you allow this to go through and the Planning Board approves it. It will be a lot line adjustment. Which is not what you are approving. You are only approving the variances. Then they will no longer have that 40 feet they will only have 20 feet.

Leonard Lim – Is there an easier way you can do that like giving them land from the bottom piece?

Eric Stark – Well all that will still require a variance.

Leonard Lim – But only one right?

Vincent Cestone – Yeah.

Eric Stark – If we gave them land from here then this would be... No it actually wouldn't work that way because as I understand it... Because even if it was a swap it would still require a variance.

Paula Clair – Okay so they don't use the top road anyway? And they only use the bottom road?

Eric Stark – Correct.

Paula Clair – And that road is 20 feet?

Eric Stark – Right. There is no road here.

Paula Clair – Right and the only reason they need a variance is that technically they had the top road prior to this time.

Eric Stark – Yeah Technically they had that land because the old subdivision was three lots and they needed three flags in order to get to those three lots.

Paula Clair – Right, so nothing has really changed in terms of their access?

Eric Stark – Nothing has changed in terms of their access at all.

Paula Clair – It's just that they need a variance for the 15 feet.

Eric Stark – That is correct.

Kristin Sorenson – That is correct.

Robert Dee – Alright, November 14 at 7:30 it will be at Town Hall, it won't be here. We'll be at Town Hall on Main Street up there. Very good thank you.

Eric Stark – Sorry about all that.

Robert Dee – No it's Okay it's just a little confusing. Okay the next one is for an application to see if it's complete is for Kenneth Callander, 10 Ferris Drive, Garrison. This is for seeking legalization of an existing 12x16 covered porch and an enclosed 3 season room both requiring a 25 foot side yard setback. Is anybody here? Okay do you want to speak to that? Tell me what you are trying to do. Standup it's already there. It's already built Okay.

(Keneth Callander, 10 Ferris Drive, Garrison TM#90.12-1-11)

Tatiana Morin – It was built in 1948 so pre code. So the house itself was already to close to the lot line. Though this deck was also built in 1962 by a previous owner and the enclosed porch was also pre-existing. So basically we need a C of O to get a mortgage. This never had a C of O so now we have to apply.

Leonard Lim – When was the porch enclosed?

Tatiana Morin – 1962.

Leonard Lim – So there are three time lines can you give them to me again?

Tatiana Morin – 1948 is when the house was built.

Vincent Cestone – and that thing, the addition was built when?

Tatiana Morin – The whole thing was built in 1948 including the outside porch and it already had windows but he just made it more enclosed. By adding the insulation.

Leonard Lim – No, no, no as time is going on he built it before codes came in but it seems like the additions were built after the codes came in.

Tatiana Morin – Right so we got, we went and got an appeal for the enclosed porch and it was denied so we could come to the Zoning Board.

Robert Dee – Okay.

Tatiana Morin – Because this is what we moved into according to these plans.

Vincent Cestone – When was the porch built?

Tatiana Morin – The porch was built with the house.

Vincent Cestone – in 1948?

Tatiana Morin – Yes. It was a model home for the whole neighborhood.

Leonard Lim – And it hasn't been changed since?

Tatiana Morin – No the previous owner before us basically put insulation in the walls and made it more winterized and as far as we understood it was a violation. So we went to the Town Hall and got an appeal, I mean we got the denied permit.

Vincent Cestone – Because if it was built before 1948 the Zoning Code didn't come into effect until 1957.

Tatiana Morin – Correct.

Vincent Cestone – So the only violation that you have is that built or was closed in without a permit?

Tatiana Morin – Yes, so we were denied that permit so we can come here and the deck outside the house is also...

Vincent Cestone – She may not need to be here.

Leonard Lim – I see the deck here which is the closed in part?

Tatiana Morin – This is the closed in porch...

Leonard Lim – I think you should...

Tatiana Morin –... and so we came here, this closed in porch we applied for and got the permit denied.

(Board members talking amongst themselves)

Tatiana Morin - and then the wood deck, also previously built by the old owner in 1965 and is also to close to the line so that is attached to the back of the house.

Leonard Lim – This is the enclosed porch right there?

Tatiana Morin – Yes.

Leonard Lim – So she's pointing exactly there.

Robert Dee – Alright. Well the house is to close to the lot line to right?

Tatiana Morin – Yeah the whole...

Robert Dee - He didn't say anything about that, the Building Inspector?

Tatiana Morin – No it was all pre-existing.

Robert Dee – Oh, so it's all pre-existing?

Tatiana Morin – The whole thing is pre existing so we are here now to get a variance for this deck. We need a ... what was it a 20 foot variance?

Leonard Lim – So he closed in the porch after Zoning came in?

Paula Clair – So your deck was built in 1962 did you say?

Tatiana Morin - 1962 and 1965.

Leonard Lim – But it was already there.

(not audible Leonard Lim and Vincent Cestone were talking amongst each other)

Paula Clair – That was built without a permit right?

Tatiana Morin – Yes.

Paula Clair – And it's to close to the lot line?

Tatiana Morin – Right, as is the whole house.

Robert Dee – The footprint was there. I guess the Building Inspector is saying that you put in the insulation and made it a living space. Is that what you are saying?

Tatiana Morin – Yes that has been... we applied for a permit for that and that has been denied correct? And they say the only variance we need now is for the back deck.

Robert Dee – Okay.

Paula Clair – Wait a minute you applied for a permit for the enclosure basically of the porch and that was denied?

Tatiana Morin – In order for us to come before the Zoning Board.

Paula Clair – So you need a variance for that too.

Tatiana Morin – The whole thing. The only thing is the porch is pre-existing before the Zoning and then the deck came on after Zoning Codes.

Paula Clair – It was pre-exising but it wasn't enclosed.

Robert Dee – Okay so the deck came on after Zoning Codes?

Paula Clair – Yes.

Leonard Lim - We just need a measurement from the deck to the property line.

Tatiana Morin - Yes, we have that.

Adam Rodd - Just so I'm clear the enclosed porch is... What would be useful, I think is, do you have pictures, an actual photo of the enclosed porch and the deck?

Tatiana Morin - I have.

Adam Rodd - Bring them to the public hearing.

Robert Dee - Bring them to the public hearing.

Adam Rodd - My understanding is the enclosed porch and the deck were built without permits.

Tatiana Morin - Yes.

Adam Rodd - And they were built to close to the property line correct?

Tatiana Morin - No.

Adam Rodd - You need a side yard variance right? That's why you're here?

Kenneth Callender - The porch was built with the house. The deck was built after that and they closed it in and made it a living part of the house.

Adam Rodd - Enclosed what the deck?

Kenneth Callender - The porch.

Tatiana Morin - They enclosed the porch. It's part of the building footprints of 1948.

Adam Rodd - Right. So they did improvements to the porch without a permit.

Kenneth Callender - Right added windows and insulation.

Tatiana Morin - We don't know if they did windows it could have been...

Adam Rodd - And then they added a deck. So you have a porch that have been enclosed and a deck that do not have. The building permit says these do not have permits and we can't give you a permit because...

Tatiana Morin - Because we need a variance.

Adam Rodd - ...where they're located. They are located to close to the side yard lot line.

Tatiana Morin – Yes.

Adam Rodd – So they said to you for us to give you a permit you have to go to the Zoning Board of Appeals to allow variances for these existing structure to remain because they don't have permits Right?

Tatiana Morin – Yes.

Leonard Lim – On this map you also say proposed addition to the deck, are you making the deck bigger?

Tatiana Morin – No that's Oh, that's...

Kenneth Callander – No we were going to propose that later, not now, that's next in line, that's a couple months down the road.

Vincent Cestone – You are better off asking for that now.

Tatiana Morin – We were thinking that but we figured it was so complicated and we didn't want to...

Paula Clair – I think if you were going to propose it I think I would want to know how close is the next house to that lot line?

Tatiana Morin – It would be going a way actually from the nearest house.

Paula Clair – Okay, but do you need a variance for expanding the deck assuming you get a variance for having the deck?

Robert Dee – Oh yeah because it would be to close.

Paula Clair – And then if you were expanding it are you going to be still to close to the lot line if you were going in the same direction?

Tatiana Morin – Well we're not moving the deck so technically the deck, where it is now, is to close to the lot line, If we were to expand it out away from the neighbors...

Kenneth Callander – Away from the other side into our property more.

Paula Clair – So would you need a variance for that if you get the variance for the deck being close now but if you go in the other direction into your property more you may not need a variance.

Tatiana Morin – This house is the size of the garage of the next door neighbor.

Robert Dee – I saw that.

Tatiana Morin – We don't want to propose it now because we don't know when we will have the money to do that. These are imaginary plans.

Robert Dee - Future plans.

Tatiana Morin - Yes.

Robert Dee - Did you buy this house? You just bought this house?

Tatiana Morin - No we are renting to own.

Robert Dee - You're renting to own, I see.

Tatiana Morin - Yes in order to get a mortgage we need to get a C of O. We need to fix these previous problems that we had aquired.

Robert Dee - I suggest just stick with what you got.

Kenneth Callander - Right.

Tatiana Morin - Exactly.

Robert Dee - To get your CO.

Tatiana Morin - To keep it simple, yeah.

Robert Dee - (not audible) and then further down the road then you can come before us otherwise you might just tie yourselves up.

Paula Clair - But if they're going further into their property they may not need a variance to add to that deck.

Tatiana Morin - Possiblly not.

Robert Dee - Well in the back anything they do in the back they are going to need.

Leonard Lim - Yeah it still will be with (not audible) of the property.

Tatiana Morin - Well you need what 20 feet from the lot line?

Robert Dee - You have to check because I don't know what your zoning is.

Tatiana Morin - Because we are actually starting at a 30 foot spot and we might not need a variance at that point.

Robert Dee - But I don't think you're going to attempt it (not audible). Okay I would just say stick with what you got. Because you're looking to get a mortgage is that what you're looking to do?

Tatiana Morin - Yes.

Robert Dee - So you're looking to get a mortgage is that what you're trying to do?

Tatiana Morin - Yes, that is the ultimate goal is to just get this problem cleared up, get a CO and start from scratch.

Robert Dee - Why don't we start with that. Alright so we are going to set you up for a public hearing it's going to be on November 14 at 7:30. It's going to be at Town Hall on Main Street up there. Take some pictures okay. People want to see pictures alright and then your neighbors will be notified.

Leonard Lim - Copies for everybody.

Paula Clair - Yeah we need copies for us.

Robert Dee - So if anybody has any complaints anybody has any complaints or concerns...

Kenneth Calender - Should we get letters from them.

Robert Dee - We do that.

Adam Rodd - If you want to submit letters from your neighbors that say we have no objection to the variance you can do that.

Robert Dee - Yeah sure you can do that any letters from your neighbors say that they don't have any problem with that, that's fine. You're all set then, okay like I say take some pictures, if you have some letters from your neighbors that say they have no problem with it that's fine.

Paula Clair - We will need copies of those things for everyone.

Tatiana Morin - Yes. Without the new proposal.

Robert Dee - (not audible) Okay thank you very much.

Tatiana Morin - Thank you very much.

(Wayne Scott Craft, 100 Manitou Station Road, Garrison (TM# 89.7-1-22))

Robert Dee - Wayne Scott Craft, 100 Manitou Station Road, Garrison. Seeking a variance for a side yard setback of 20 feet of section 175-11B which requires a 30 foot setback to build a 24x24 foot garage.

Glenn Watson - The property is on Manitou Station Road, it's on the last, just on the crest of the road, it's on the last run down to where you cross over the wetland to the tracks.

Robert Dee - I took a ride over there today I know just where you're talking about.

Glenn Watson – (not audible) It's access by a driveway that comes in, circles around, goes down the hill and ends at the house. What Mr. Craft would like to do is build a garage in between the two driveways so he can come in and build it in such a manner that he can come in at the top (not audible) and drive in from the bottom. Simply put we got steep slopes and wetlands (not audible) on this side keep away from that and give it room, enough room for him to turn into the driveway. We have to push the proposed garage to the south east which puts us in 20 feet from the side line and if we push it 10 feet further we'll be into the wetland buffer, we will be at the crest of the hill and not be able to access the garage. So we just have a practical limitation. We did look into putting it up here, it simply doesn't work and we would also need a variance so...

Vincent Cestone – How about turning it 90 degrees?

Glenn Watson – The problem with turning it 90 degrees is coming in here you mean?

Vincent Cestone – Yeah.

Glenn Watson - Coming in this way?

Vincent Cestone -Yeah.

Glenn Watson – You can't come in this way because the ground drops too quickly.

Vincent Cestone – Okay.

Glenn Watson – It drops too quickly this way the ground from the upper driveway is very steep. Down enough so it's 24 feet, you would get a whole story and you can park on top and you can park (not audible) it's that steep.

Vincent Cestone – I see.

Robert Dee – Okay it looks like I have everything, the application looks complete to me. Does anybody have any questions for now? Okay we'll set it up for public hearing.

Glenn Watson – Same night?

Robert Dee – Same night for November 14 at 7:30 at the Town Hall.

Glenn Watson – Thank you very much.

Robert Dee – Thank you.

Vincent Cestone – I make a motion to adjourn.

Leonard Lim – Second.

Robert Dee – All in favor.

Leonard Lim – Aye.

Granite Frisenda – Aye.

Robert Dee – Aye.

Paula Clair – Aye.

Vincent Cestone – Aye.

The meeting adjourned at 9:00 P. M. by a unanimous decision.

**NOTE: These minutes were prepared for the Zoning Board of Appeals and are
 subject to review, comment, emendation and approval thereupon.**

DATE APPROVED: _____

Respectfully submitted,
Linda Valentino
Secretary