

ZONING BOARD OF APPEALS

238 Main Street, Cold Spring, New York 10516

April 9, 2012

7:30 p.m.

PUBLIC HEARING

NONE SCHEDULED

REGULAR MEETING

- 1) **REVIEW OF MINUTES:** March 12, 2012
- 2) **WILLIAM MORDHORST:** **Appeal #876** for an Interpretation. Applicant is appealing the issuance of a building permit on March 17, 2011, to Dominick Giusti, for the construction of a warehouse size structure. The request is for an interpretation of the meaning of the language on the zoning ordinance. This is a continuation of the Public Hearing held on November 14, 2011 and January 9, 2012. (Location 18 Stone Ridge Road, Garrison) in an R-80 District. **TM #72.-2-3 RESOLUTION**
- 3) **LYONS REALTY COMPANY:** **Appeal #840** for a Special Use Permit. The applicant proposes a Soil Mine on properties located on the east side of US Route 9 between Mill Road and East Mountain Road North in the Town of Philipstown. The project site is currently a wooded area. Applicant owns a 136.9 acre parcel of which 32.6 acres will be disturbed for the mine and a proposed road. The mining operations will be confined to an 18.8 acres area. (Located 3175 Route 9, Cold Spring) in an Industrial and R-40 District. **TM #17.-1-76.11 REVIEW FOR PUBLIC HEARING PLACEMENT**
- 4) **ANDREW and SUSAN HOMOLA:** **Appeal #878** for a Variance. Applicants would like to increase the height of a deer fence around the back of their property from 6' to 8', without setback. (Location 24 Woodland Drive, Garrison) in an R-8- District. **TM #49.-3-63 REVIEW FOR COMPLETENESS** (to be heard with Edelstein Appeal)
- 5) **DRAKE PETROLEUM Co./GARRISON FOREIGN & DOMESTIC STATION:** **Appeal #879** for a Variance. Applicant would like to re-image the current Getty Gas Station to a Gulf Gas Station. The Zoning District requires a front yard setback of 30 feet from the centerline of a State Road. The survey indicates a new two pole sign to be placed on the footing of the existing single pole sign which is 23' from the centerline of Route 9D. (Location 1122 Route 9D, Garrison) in an HM District. **TM #60.18-1-46 REVIEW FOR COMPLETENESS**
- 6) **JERRY EDELSTEIN:** **Appeal #880** for a Variance. Applicant would like to increase the height of a deer fence from 6' to 8' without setback. (Location 14 Woodland Drive, Garrison) in an R-80 District. **TM #49.-3-64 REVIEW FOR COMPLETENESS** (to be heard with Homola Appeal)
- 7) **OLD BUSINESS\NEW BUSINESS**

Vincent Cestone
Chairman

NOTE: Items may not be called in order shown. Not all items may be called.

ZONING BOARD OF APPEALS

March 12, 2012

MINUTES **DRAFT**

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, March 12, 2012, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT:	Vincent Cestone	-	Chairman
	Lenny Lim	-	Member
	Bill Flaherty	-	Member
	Robert Dee	-	Member
	Paula Clair	-	Member
	Amy Zamenick	-	Counsel

ABSENT:

Vincent Cestone - Okay we have one public hearing tonight on the agenda, Lausca. Is there anyone here to speak for the applicant? So before we look at any pictures what was the outcome with the Planning Board? Have you decided not to go to the Planning Board

Lawrence Paggi - We decided, what we wanted to do was to continue in front of you folks to continue to argue that the violation is inappropriate because it was actually acknowledged by the Planning Board in their meetings and the resolution and we have been in contact with the Town Engineer and it is our intention, hopefully after resolving this review with you folks, to submit for a revision to the Planning Board to modify that entrance but our proposal here. The reason why we are here tonight is to continue to state that the violation was inappropriate. That the speed bump as designed with the curbing was actually improved as was constructed on site.

Vincent Cestone - It is in the resolution?

Lawrence Paggi - It is absolutely in the resolution. I have a copy of it if you would like to see it.

Vincent Cestone - Yeah

Amy Zamenick - I have reviewed the resolution and it was a condition. I think there is some discrepancy as to what the actual Site Plan map as approved.

DRAFT

Vincent Cestone - The issue here is that it is in the resolution but not the map

Lawrence Paggi - Well, the curb actually lies right along the property line. So you cannot actually see the curb underneath the property line but there is a note immediately adjacent to the property line that says the proposed speed bump is a 12 foot opening in curb. So while you can't see the curb underneath the property line, it is indicated with a note that there is a curb there and there is going to be an opening created in the curbing. I think if you have the opportunity, I have the meeting minutes too if you have the opportunity to take a look at the Planning Board meeting minutes. It clearly stated that the Town is agreeable to a compromise to provide a 12 foot wide access in front of the property to the adjacent property to the north with a speed bump, but with a speed bump and the rear will remain closed. Indicating that the curb will remain along the rear portion of the property.

Vincent Cestone - Do you have anything

Lawrence Paggi - Again I mean we are sympathetic to the situation that occurred out there. The owner's intention to take this back to the Planning Board and address the concerns that are out there, but again, we want to make the point here that this is absolutely an approved site plan and that the violation was inappropriate and there should be no other view of the project. I mean the applicant did what was approved and constructed it as approved and you know, an issue was subsequently identified and he has every intention to work with the Planning Board to bring some resolution to that.

Lenny Lim - Would there be any signage there for the speed bump?

Lawrence Paggi - What the Planning Board, they talk about signage. The Planning Board asked that it be stripped. That the curb be painted and that it be stripped. And that is what was done. The speed bump was stripped. So what the intention, what we are thinking about doing is extending this curbed island close to the property line and putting some plantings right along the side of it so it will be physically identified with some plantings that you know you are not going to drive through and on the back side, the same thing. Lining it up, it is going to be slightly wider, the curb opening will be slightly wider and it will line up with an existing island that already has plantings in it. So as you are approaching it from this direction you will see plantings on either side that will identify the limits of it.

Vincent Cestone - What is the purpose of the curb anyway? It seems like it is asking to be hit.

Lawrence Paggi - The curb is there to prevent, prior to the curb's existing traffic went through there at a high rate of speed. It was an issue. And not only at a high rate of speed but tractor trailer traffic also had tendency to move through this area and would create issues as far as parking and access. The concern as

we stated last meeting is that drivers either entering the adjacent site or entering Philipstown Square from the adjacent site would be traveling at a high rate of speed and cars backing up or pulling in would be subject to the exposure of those fast moving vehicles.

Vincent Cestone - You would think that a speed bump from the building to the road would be an ideal way because you control the speed and you wouldn't have to worry about people hitting the curb.

Lawrence Paggi - You are losing me.

Vincent Cestone - You know instead of having a curb at all, from the building to the road the whole length would be one long speed bump. But that's not the issue here. I am just thinking out loud

Lawrence Paggi - Well, I mean

Vincent Cestone - Well that's a Planning Board issue

Lawrence Paggi - Yeah. I don't know that the owners would be objectionable to that, I think we can accomplish that and make it a little more attractive. If we have an island there that will, there will definitely be a spot there to put a sign too.

Robert Dee - We need something there.

Amy Zamenick - Just for clarification for the Board. I noticed that the note in the resolution says that the 12 foot wide un-gated interconnection with the speed bump with a 6 foot long slope transition section on each side. Do we have that 6 foot transition and is it noted on the map

Lawrence Paggi - Yes. It is actually detail, here is the detail right here.

Amy Zamenick - And that references back over to that

Lawrence Paggi - Absolutely

Amy Zamenick - Okay

Lawrence Paggi - It actually says to refer, in the note it says see detail sheet and general note #11. General #11 refers to the transition detail. This is the detail that it is referring to.

Amy Zamenick - Okay. And that is the slope

Lawrence Paggi - Yes

Amy Zamenick - Okay

Vincent Cestone - Any questions from the board?

Paula Clair - This is for Kevin. On what date did you issue the violation?

Kevin Donohue - Do you have a copy of my notice? It should be in with the application, we included it with the application. The first paragraph, Please take notice that in response to an auto accident, an inspection was performed on December 6, 2011. The west corner of the parking lot which revealed a concrete barrier along the north side of the property line not identified on any Planning Board approved site plan. This would be the Planning Board site plan, signature Andrew Merante. On that plan I will point out there is a curb spec on the entrance and a curb spec here, the divide and the curb is 6 inches

Paula Clair - Can you help us understand how _____

Kevin Donohue - I wasn't present during the discussions. All I

Paula Clair - In terms of what he was showing us on the Planning Board stuff

Kevin Donohue - Okay. Going to my second paragraph Please be advised that the Zoning Law, Local Law #1-2011 which took effect on May 3, 2011, Section 175-68 requires all site improvements and landscaping be properly installed and continuously maintained. The site inspection revealed two violations. The concrete barrier along the north side does not appear on the March 24, 2010 Planning Board approved site plan, last approved, and is a hazard to traffic and circulation between adjacent lots not in compliance with the Zoning Law, Local Law #2-1968, in effect at the time of site plan was approved, specifically Section 175-39(C)(7) and number 2. Number 2 is not a question. So what, the law says that you cannot a traffic hazard within the circulation. The barrier, not a curb, a barrier which is 12 to 18 inches high, and has a transition from somewhere just in front of the building to just in front of the dumpster has a transition in land. It is actually like a retaining wall and my review of the site plan on your page 2 and 3 of the site plan shows traffic circulation for a fire truck and a tractor trailer. Both of them crossing the property line which has a grade transition right at the barrier. So the wheel would be dropping off so that actually you cannot circulate through there without the vehicle dropping off that barrier.

Vincent Cestone - But it is in the, isn't that the _____ that he is talking about?

Kevin Donohue - That's not the detail for there. That is the curb and sidewalk in front of the building

Vincent Cestone - Oh okay

Kevin Donohue - What I was pointing out is that there is no detail on that barrier because when we looked at the curb details, back to the ones you were pointing at, here we go, is again to pavement it is only 6 inches high. This barrier is much higher. And not seeing it, it is actually gets into the undercarriages of the car. I observed several impacts and chips on this barrier.

Vincent Cestone - So what you are saying is that it is not that the curb itself, it is the height

Kevin Donohue - Yes. For the full length it doesn't act as a curb for the full length. It acts as a barrier and a small landscaping.

Robert Dee - But the opening is wide enough for trucks to get through

Kevin Donohue - Oh yes. The opening, there is no question on the opening. This, it's called the Asphalt Steep Bump detail. That's in place as is on the plan.

Robert Dee - Right

Paula Clair - So why would traffic go by the retaining wall instead

Kevin Donohue - As it was described to me, and I did take this path, from Joanne Brown who was involved in the accident. She told me how she entered the site through the traffic light and the gas station. So I entered the same way and there was a low sun, she said there was a little glare on the windshield and activities happening around her. But as you go towards the opening, you go to the rear of the car that you see and if you, and when you are in front of the gas station heading towards the, this area here where you see the rear of the car, you will run into that barrier. There is nothing above foot high to guide you into the opening

Vincent Cestone - So what you are saying is that it wasn't built to the plan

Kevin Donohue - No no. What I have discovered is that feature had been installed many years before and that the discussion with the planning board was to open that feature for that speed bump. But as I looked on previously approved plans, that barrier or wall doesn't appear on any plans. So it was designed to no specifications. And I point out on the plan that our curb height is 6 inches. And this is well over that.

Paula Clair - So what would be the remedy to make that a safe

Kevin Donohue - There are a number of traffic calming devices that can be used. But again that is for the Planning Board. Here my office is reacting to an auto accident, about first hand observations and looking at a feature that is

damaging vehicles. That our traffic search relation and the way we move through parking lots is to veer vehicles around trees, signage. This barrier when you get within, certain cars that is, when you get in 20 feet of it, boy my mouth is dry, it disappears under the hood.

DRAFT

Vincent Cestone - In your opinion was it built to the Planning Board's specifications?

Kevin Donohue - I can't answer that because there is no specification I can find. It is not on the plans.

Robert Dee - So why did you issue a violation?

Kevin Donohue - Because it was a traffic hazard in violation with 175-39(c)(7) of Local Law #2-1968 which was former zoning.

Robert Dee - This is your findings

Kevin Donohue - Yes sir

Robert Dee - Not the Planning Board's

Kevin Donohue - No no

Robert Dee - I looked at it too. I stayed there and watched traffic go and forth.

Kevin Donohue - The key

Robert Dee - I understand what you are saying but just glad it wasn't a child standing there that she hit instead of a wall

Kevin Donohue - Right and so again it is just first hand observations, not finding any standard to what it was constructed under, not finding it on any Planning Board approved plan. And I did look on the gas station plan. I did not find it.

Robert Dee - I read the Planning Board thing and it looks like it says

Kevin Donohue - It was discussed. But it is a feature, not appearing on the site plan. However, the resolution adopts a plan. And that is the legal document. I can't enforce the resolution. The resolution is the vote of the Planning Board accepting the site plan with certain conditions and inferred certain discussions.

Robert Dee - Okay so if he changed it on his plan, that would be acceptable

Kevin Donohue - Oh yes of course. But, that has to go back to the Planning Board.

Lawrence Paggi - If I might interject, this Planning Board process was not a short process. This was a subject of much discussion for the same reasons we are having tonight. Yes it was a barrier, it was intended to be a barrier because we felt that the traffic going through the site was dangerous. The Planning Board made I believe multiple visits to the site, so they were well aware of the construction of it. And our opinion is, it is part of the existing site Site Plan approval that was subsequently been granted and it is included in the resolution. That concrete structure, whether you want to call it a curb or a retaining wall whatever you would like to call it, is now a part of an approved Site Plan. That's the position that we, we left the Planning Board feeling that we had addressed all their concerns and we are walking away with feeling that everybody was on the same page.

Vincent Cestone - So why wouldn't you want to go to the Planning Board and have it clarified and have this all go away

Lawrence Paggi - Well we don't believe it needs to be clarified. We would like to see the violation go away and then we will go back and fix the issue as to why people are running into this barrier. If there is an issue, we are agreeable to going back to making that work. I mean the Planning Board is obviously going to hear your recommendations, if you decide to do anything you are going to tell them maybe you should think about a sign, you know visibility is an issue here. And we are prepared to address those issues. But we believe that a violation suggests that our client has done something wrong and that is not the case.

Vincent Cestone - I don't know if that is the case, but, that's your opinion

Robert Dee - How many accidents, have there been other accidents or just this one?

Kevin Donohue - I only had the one reported to me.

Robert Dee - One woman ran into the curb and

Kevin Donohue - Reported to the office

William Flaherty - What you are saying then you have essentially followed the dictates of the Planning Board where you opened that, I was just inquire about one provision by

Lawrence Paggi - The short answer is yes. The long answer is that it was a very much a mutual negotiation. We wanted to leave the whole thing closed. They wanted to leave it open. And we came to this resolution between us that this was how it was going to be constructed.

William Flaherty - I visited the site for the past three days. The wall itself, I consider it a wall, because at one end it is like 18 inches high on the north end and on the south end is smaller which is very very high for a curb. And I can readily see why an accident had taken place there. There is a big chunk of concrete which is knocked off the curb itself. I don't know what happened there perhaps the automobile that hit it knocked it off, I don't know.

Lawrence Paggi - Right

William Flaherty - But I would say it would constitute a hazard if, at nighttime you can't see that wall. If you went from the gas station to the deli and you were off about 3 or 4 feet, you will hit that curb. No question about it. And I would think that it would sustain quite a significant amount of damage to an automobile if it goes through that. In the time that I was there, I was probably only there about 15 minutes, I counted four cars going from the deli parking lot over to the gas station in 15 minutes. Now I assume that may be an off hour kind of thing when the traffic was maybe slower than it had been. It was about 5 or 6 o'clock in the evening. But I was surprised to see that many cars going through that opening there. I would really suggest to you that for safety purposes, if nothing else, that that curb be, the height of the curb be reduced significantly over what it is. That property was owned by one owner at one time and there was no curbing there. Curbing was just in there recently

Lawrence Paggi - Right

William Flaherty - But at one time cars used to come in and out of there from the gas station to the deli without any problem. I think that it does represent a safety hazard. I really do. I think if I were to go from the deli property over to the garage, I would probably have a hard time going through that 12 foot opening. Because there is a big chunk of cement there now. It is not obstructing the 12 foot opening, but it is there and it on top of existing curbing. Now unfortunately as Kevin said we don't have any specifications in our Code which specifically outline for us the height of a curb. I don't know if it is 4 inches, 6 inches, 10 inches

Lawrence Paggi - I think you may have a curb height in there. I think the issue is that it was a pre-existing structure and not necessarily a curb. It was basically a concrete barrier between the two properties. I have a question for you. Do you acknowledge that there was a safety issue from cars passing freely in between the two areas

William Flaherty - In between the two properties, I would say yes.

Lawrence Paggi - Okay. Because that was a significant concern when we were in the Planning Board.

William Flaherty - If one car was going south and the other car was going north through that same opening, there would be an accident.

Lawrence Paggi - And the bigger issue was actually folks trying to beat traffic and scoot out one way or the other and there was no traffic calming and people were moving through there at a pretty high rate of speed.

William Flaherty - That's right. I think that the purpose there is well intended but whether or not it is effective remains another question.

Lawrence Paggi - I think we are agreeing with you that it needs to be made more visible and at night as well as day time and it has to be an obvious opening and I think we are agreeable to making that happen.

Robert Dee - What was the planning board's objection to not having a complete wall for the whole thing

Lawrence Paggi - They wanted to have folks be able to travel between the two sites. They didn't want people to have to come out on to Route 9 and then back into the gas station.

Kevin Donohue - The zoning code requires intercommunication between sites for traffic circulation that's a requirement in the code.

Robert Dee - Every commercial piece of property in Cold Spring can get from one to the other, is that what you are trying to say?

Kevin Donohue - If you would like I can go downstairs and get it for you

Robert Dee - No but is it true?

Kevin Donohue - Yes it was implied that way. Right. Well when I say implied

(Everyone talking at once...cannot decipher)

Robert Dee - I mean there are sites in Philipstown where you can't get from one commercial site to the other.

Kevin Donohue - I will go down and get the older code and you can read the text

Robert Dee - I am just saying that there are sites where there are barriers up and you can't get from one site to the other.

Lawrence Paggi - I am not familiar with what is on the other side here as to whether it is residential or commercial but there is no access

Robert Dee - What's on the other side

Kevin Donohue – residential

Amy Zamenick - Let me just ask for clarification. This is for clarification for the Board so if they do do a letter to the Planning Board that we understand. Here we are at note 11, general note 11 and it is describing the six foot slope

DRAFT

Lawrence Paggi - Right

Amy Zamenick - The height is showing 6 inches full height reveal. Can you explain that?

Lawrence Paggi - That is a typical curb detail where you go from basically flush with grade to the curb height within 6 inches. 6 inches is a general curb height reveal.

Amy Zamenick - So it would normally be 6 inches.

Lawrence Paggi - A curb would normally be 6 inch reveal, that is correct

Amy Zamenick – okay

Vincent Cestone - Any other questions from the Board? Any comments from the audience?

Robert Dee - This gentleman wanted to speak.

Mr. Scanga - I just want to summarize

Vincent Cestone - Sure, come on up

Mr. Scanga - We are well aware there is an issue. A hazard issue. And we are very willing to take care of it, we are going to do something about it. The question here is is this wall, are we in violation of this wall being there? Curb, wall, barrier. We are not in violation that the barrier is there. It is on the Planning Board, I mean it is on the property line, it is under that line, there is detail showing, it is in the resolution. We were asked to come here because of the violation. We have already been in touch with the Town Engineer and we are going back to the Planning Board to resolve how we are going to handle this issue. So we are not walking away from this by no means. We are very sympathetic to what has happened there. You can see from the progress we have made at this plaza we are not looking just walk away from this thing. We have a lot of money invested in there. So, again, the reason we are here is is to determine whether we are in violation or not. The Planning Board is a separate

issue and we are going to them and we have already been in touch with them and we are going to resolve this to make it look nice and safe. Is really what it comes down to.

DRAFT

Robert Dee - Thank you

Vincent Cestone - Any other comments from the audience? Just looking at Kevin's letter paragraph 1, it makes two statements here. It does not appear on the Planning Board Site Plan and the second statement is in violation of zoning law local law #2-1968 in the Section is cited. I see that as two separate things. Is it on the Site Plan, I think there has been a lot of testimony on both sides. Is it a violation of the zoning code? That I would have to say yes. I think that the only thing that we have, in my personal opinion, it is a violation of the zoning code and the only thing I have to decide in my mind is is it on the Site Plan. And based on the information that was presented I haven't made a decision, but I am leaning towards yeah, it's on the site plan but it is a violation

Lawrence Paggi - How can it be a violation if it is part of an approved site plan?

Vincent Cestone - Just because the Planning Board approved this doesn't mean it can't be in violation. You can have a site plan, you don't have a specification on here.

Lawrence Paggi - I think it is an interpretation on whether it is a traffic hazard or not because it is not intended to be in a traffic

Vincent Cestone - But you don't have a specification on your site plan to say that it is this high and this wide and

Lawrence Paggi - Because it was existing. It wasn't built.

Vincent Cestone - There is not a specification. So

Lawrence Paggi - I don't follow that

Vincent Cestone - Is it violating the code? In my opinion, yes. Is it on the approved site plan, my opinion, yes. So you do have a violation and it is on the plan. That's the way I am looking at it.

Amy Zamenick - Mr. Chairman, I know there is somebody in the audience

Robert Dee - If it is on the site plan and as far as the second one, that it is a traffic hazard. That's two different issues. One is on the site plan, so we kind of agree with that. As far as the traffic hazard, I don't know. I mean there is a 12 foot wide opening and you can get through back and forth, so I understand the problem, but just _____ and your going back to the Planning Board

Vincent Cestone - Yes ma'am? Introduce yourself please

Joanne Brown - My name is Joanne Brown. **DRAFT** And I am the person who had the car accident. I would just like to explain what happened to me and in listening I would just like to make a comment. On January 3rd I was, thankfully my husband is here to help me with times and dates, on Saturday, December 3rd I was traveling south on Route 9 and I was planning on meeting my husband at the Philipstown Square. And it was Saturday about 11:30 and I was busy and I made the conscious decision when I got the gas station at Philipstown Square that it would be safer to turn left into the gas station at the light where the traffic is stopped rather than to continue further down and put on my left hand blinker and wait for the northbound traffic to clear up and the southern traffic to pass around me. And I turned into the gas station and I turned right to head towards the Philipstown Square. There is a rather large corridor between the end of the gas station and the Route 9 and I didn't see the barrier. And I ran right into it. And I totaled my new car. There was a law officer there within seconds and I couldn't believe he was there but he called the ambulance and when the ambulance came, there was an ambulance and an assistant, an EMT. And she came out and she said I knew exactly, we knew exactly what had happened and where you were because it happened before. Well I was in the hospital and I am fine. And that's not the problem. But, I didn't see it. Whether I am a good driver or a bad driver, I mean I have a good record. But I didn't see it. And had you been standing there eating a sandwich, I think I would have seen you. But I did not see it. Because of the sun, because of the shadow, or lack of shadow and I have gone back there several times to try and figure out why I didn't see it. And here are some of the reasons. When the sun is more towards the west, the shadow of the telephone pole comes across the road. And I think that is a possibility that's what happened. If I did see something, I don't know why I didn't see it. It may have been the shadow of a telephone pole, I am not sure. I wrote something down here. Oh, the other thing was, it was Saturday. And people who have visited the Philipstown Town Square they park next to that curb facing Route 9. So if you are coming down past the gas station, you are going south into the Philipstown Market, you see these cars there. But it was Saturday, I am trying to figure out how did I do this, the stores were closed and the cars weren't there. So again, I just didn't see that barrier. To me it looked totally open. Now I know

Vincent Cestone - Talk this way please

Joanne Brown - I am very sorry. I know some paint has been put down and it is defined on either side of the speed bump I guess that is what you have been referring to it, on either side. But it hasn't been continued all the way down to Route 9. All the way west. And that is where I had my accident. I have one other name of one other person who had an accident there if you want it. But when I tell people what happened, they say oh I know so and so, I know so and

so, it has happened several times. There was one car that was absolutely lodged right on top of it. He couldn't go forward and he couldn't go backward. It is just so dangerous. That's what I am worried about. And I am worried about this going back and forth and back and forth. I had my seatbelt on, and I wasn't hurt. But, and I wasn't speeding. I am an old lady I don't travel quickly. It is just a very unsafe situation. It has happened many times. I saw debris there after my accident because I go up and down Route 9 all the time and I am always checking to see the latest chip or the latest piece of fender or bumper or something that is there. And I am not interested in good guys or bad guys, I just before something really seriously happens, perhaps a child that is not in a restraining belt

Vincent Cestone - I think there is no question that _____ zoning board

Joanne Brown - I just feel that it is unsafe. Very unsafe and that's why I asked what can I do? What can I do about this? And I was told to speak to Kevin, so I went and spoke to Kevin about it.

William Flaherty - I think it is probably safe for us to conclude that the barrier itself represents a hazard, a safety hazard. I think everyone would agree to that.

Lawrence Paggi - I think that we are in agreement that it can be made better. It can be made safer.

William Flaherty - I think you can improve it. One of the things that you did comply with the Planning Board was the fact that you had a 12 foot opening there. It was required by the Planning Board that you do that

Lawrence Paggi - Correct

William Flaherty - And that is there. I quite frankly think that that 12 foot opening is inadequate.

Lawrence Paggi - If you do that then you are going to be driving into the backs of other cars though. That's our concern. If you start opening that too wide, you are going, I mean the backs of the cars that Mrs. Brown was saying that she would normally use as a guide, I mean they would become the obstructions in that. We are completely sympathetic to what she just mentioned. I mean that's why our intention is to try to rectify. But exactly what she described is what we are trying to prevent. We don't want people turning into the gas station to get to the Philipstown Square.

Robert Dee - Right

Lawrence Paggi - It would be discouraged if there was speed bump and they have to travel slowly. It would be at a safe rate of speed

Vincent Cestone - Even the speed bump is not marked. You know how they paint on speed bumps they are painted white and they draw lines on it.

DRAFT

Lawrence Paggi - It is supposed to be stripped.

Mr. Scanga - It was but it has been 2 years.

Lawrence Paggi - It is supposed to be stripped.

William Flaherty - The speed bump in itself runs well with the rest of the lot, the blacktop. There is no stripes on it, there is no painting on it. There is nothing to indicate that there is in fact a speed bump

Lawrence Paggi - It probably worn off. It needs to be repainted. We are suggesting that more needs to be done.

William Flaherty - That's an understatement

Lawrence Paggi - And there should be a sign

Vincent Cestone - Going on to #2 on the letter. The landscaping is more to the west. We haven't talked about that. In the parking lot it has not been installed on the March 24, 2010, Planning Board approved site plan.

Robert Dee - Was there a violation for that

Lawrence Paggi - Are you aware of that?

Vincent Cestone - So are you going to correct that?

Mr. Scanga - The idea is to install that landscaped island. So there will be no more curb cut. There will be a landscaped island

Lawrence Paggi - That's this area here. Instead of having the landscape island close on their property, it will come to right to that existing barrier and this whole area will be planted.

Vincent Cestone - Okay so that part of the violation is not being challenged.

Lawrence Paggi - That's correct.

Vincent Cestone - Any more questions from the board? Any more comments from the audience? I make a motion to close the public hearing. Do I have a second?

Amy Zamenick - You are not going to refer to the Planning Board? You are ready to close and make a decision?

DRAFT

Vincent Cestone - You think I should send it to the Planning Board

Amy Zamenick - That's your decision. I just want to make sure that you are sure of what you want to do. I am just making sure that you as the Board have decided. If you want to send it to the Planning Board, then adjourn the public hearing until they get a decision from the planning board, and then have it come back and then you can send a letter of recommendation. That may be more favorable to the board rather than make a decision now and find either way and they still have to go to the Planning Board and then you have no say as to whether they go to the Planning Board or not. If you adjourn, then they have to go and come back to see if their violation exists.

Vincent Cestone - So what is the Board's decision

Paula Clair - I think that, well, the second violation is not being challenged but the first violation looks like there was, the design was approved by the Planning Board maybe should be revised. So you know, I can understand on their part that they thought that they think they shouldn't be charged with a violation because they appear to be in line with what the planning board approved, but on the other hand you can't leave it because it is a hazard. So I think we should refer this to the Planning Board to have

Amy Zamenick - For clarification

Paula Clair – Yes

Vincent Cestone - Make a motion

Paula Clair - Okay I move that we refer this matter back to the Planning Board for clarification.

Vincent Cestone - I'll second that. All those in favor?

All Board Members - Aye

Vincent Cestone - Opposed?

(no reply)

Amy Zamenick - Now you just need to adjourn the public hearing

Vincent Cestone - And I make a motion that we adjourn the public hearing until we hear back from the Planning Board. Do I have a second?

William Flaherty - I'll second

Vincent Cestone - All those in favor

All Board Members - Aye

Vincent Cestone - Opposed

(no reply)

Lenny Lim - I just want to say that you guys did a good job proving everything. You really did.

Lawrence Paggi - If I understand what just happened, we are basically just turning things around. We had intended to go back to the planning board, so we are going back to the Planning Board and humbly come to some kind of resolution as to how we are going to change it and then we come back to you?

Amy Zamenick - Yes that's exactly it. Is the board interested in sending a letter over to the Planning Board expressing their concerns and their referral. Do you authorize me to prepare that for them or

Vincent Cestone - Kim

Amy Zamenick - Do you do that?

Kim Shewmaker - I just usually send them a quick letter with a copy of the entire file

Amy Zamenick - I am used to working with different boards. This is great if you do it. And maybe

Kim Shewmaker - I thought I was getting out of it

Amy Zamenick - Either way if you want her to do it or I can do it

Vincent Cestone - I don't care as long as it gets done

Amy Zamenick - The things that should be mentioned are signs and new striping were the comments that I wrote down. Does the Board have any other comments that they would like to add besides the sign and new striping.

Vincent Cestone - Clarification of the plan, what their intention was on this one.

Amy Zamenick - Right. Great.

Vincent Cestone - I am going to jump down to Lyons Realty Company. We need to get Ron Gainer's comments on this. So I am not going to put it on the agenda until next month. At our next meeting

Amy Zamenick - We will hopefully have it by then

Kim Shewmaker - So it won't get on to May then for a public hearing

Amy Zamenick - Yes

Lenny Lim - Kevin, how much was the fine?

Kevin Donohue - No, this is a notice of violation. Not an appearance ticket. What my orders do is they

Vincent Cestone - Either they fix it or they

Kevin Donohue - Go to the last paragraph. You are hereby ordered to correct this violation by removing the concrete barrier. Then it goes on to say failure

(Turning over tape....may have lost some dialogue)

Kevin Donohue - ...And if you don't within 60 days, that's what the law states, then I can move forward with an information and summons.

Vincent Cestone - So since they are before us, it stops the clock

Kevin Donohue - It is a stay. Yes. That is a state law

William Flaherty - Kevin, when I was over there I noticed that the lighting over there at the parking lot leaves something to be desired.

Vincent Cestone - Going on the resolution for Mordhorst. We have a draft resolution. The resolution which is not a final resolution. Amy is going to finalize. I would like to make a motion to adopt it pending the final resolution. Do you want to read part of it into the minutes

Amy Zamenick - We can absolutely do that yes. I received the minute late last week and do to my own time restraints, it is in draft. I am going to go through the minutes one more time to make sure I didn't miss anything in the resolution. I would like the board to review it as well to see if there is anything missing from their comments. I tried to be as thorough as possible I went through all my notes from all the public hearings and made sure I included all the neighbors' names and everything like that. I will be emailing it to the board and then it will be in final by the next meeting but we will be approved pending revision. So it is

approved, but we will just affirm approval at the next meeting.

Lenny Lim - What is the motion for?

Amy Zamenick - To accept it in draft pending revision

Lenny Lim - Okay. I'll second.

Amy Zamenick - Okay. I never did a resolution for you guys do you want me to just read the introduction? Is that what you are interested in?

Vincent Cestone - Usually read down to the conditions.

Amy Zamenick - So we will read to the interpretations

Vincent Cestone - Right

Amy Zamenick - Okay. You don't read the heading

Vincent Cestone - No

Amy Zamenick - Just checking. Okay. The applicant, William Mordhorst is the owner of a parcel of property located at 8 Stone Ridge Road, Garrison, New York 10524 in the Town of Philipstown. The parcel is improved by a single family dwelling, and is within the R-80 Zoning District. A right-of-way exists over the applicant's property to several other properties. Among these properties is that of Mr. and Mrs. Dominic Giusti. Mr. and Mrs. Giusti own a parcel of property located at 18 Stone Ridge Road, Garrison, New York 10524, tax map section 72, block 2 and lot 3. Mr. and Mrs. Giusti's property is also located in the R-80 Zoning District. Mr. and Mrs. Giusti's property is improved by a large single family home and two garages measuring 23' x 112' and 24' x 48' respectively. Mr. and Mrs. Giusti sought and received a building permit for these two garages under the prior Zoning Ordinance, in March 2011. The applicant believes that these garages violate the applicable Zoning Ordinance and that the Building Permits were issued in error. Any issues regarding the use of the right-of-way over Mr. Mordhorst's property are not of issue in this appeal. The applicant, therefore, seeks an interpretation of the prior Zoning Ordinance Sections 175-4, 175-8, 175-11 and 175-25. The applicant also seeks an interpretation of the current Zoning Ordinance Section 175-27 which took effect on May 31, 2011. Further, the applicant appeals the issuance of Building Permits #10524 and #10523 issued for the two garages located on the Giusti's property. The applicant has submitted an appeal on July 13, 2011 and later clarified his request in the form of letters to the Code Enforcement Office from his representative, William J. Florence, Jr., dated September 29, 2011, November 10, 2011, and January 9, 2012. The Code Enforcement Officer, Kevin Donohue, responded to these letters on November 14, 2011 and on February 6, 2012. Specifically, the

applicant alleges that the building permits were issued in error and that the buildings are unlawful. His argument is based on the size materials, and alleged use of the garages. The applicant has accordingly requested interpretations of the above listed Zoning Ordinance provisions and appealed the issuance of the above referenced building permits to this Board. At a public hearing of the Board on January 9, 2012 and continued on February 16, 2012, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to the Board, Vincent Cestone made a motion, seconded by Paula Clair, as follows: Be it Resolved that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds as follows: That the Zoning Board of Appeals hereby affirms the Town Code Enforcement Officer's interpretations of the prior zoning ordinance sections 175-4, 175-8, 175-11 and 175-25 and his interpretation of the current zoning ordinance section 175-27. Further the Zoning Board of Appeals finds that building permits #10524 and #10523 were not issued in error and that the structures located on Mr. and Mrs. Guisti's property located at 18 Stone Ridge Road, Garrison, New York 10524, tax map section 72, block 2 and lot 3 are not unlawful structures and do not violate the zoning ordinance of the Town of Philipstown. The Board therefore denies the appeal of William Mordhorst from the issuance of building permits #10524 and #10523 for the two garages located on tax map section 72, block 2 and lot 3. The affirmation of the interpretations and denial of the appeal of the issuance of building permits #10524 and #10523, for the reasons set forth herein, shall constitute the zoning board of appeals findings. And it goes on to the Interpretations, Findings and your denial of his appeal.

Vincent Cestone - So we have a motion and a second to accept this draft resolution until the final resolution is approved. All those in favor of accepting it

All Board Members - Aye

Vincent Cestone - Opposed

(no reply)

Kim Shewmaker - So I am to give the draft to Tina and let her know that this is in draft and the final will be at the next meeting

Vincent Cestone - Yes

Bill Flaherty - When is the next meeting

Vincent Cestone - April 9th. Is that not a problem Kim

Kim Shewmaker - Is it a problem for you Amy? It is the day after Easter if anybody is traveling.

Vincent Cestone - Minutes of February 13th, any corrections or additions? I make a motion to accept the minutes as submitted. Do I have a second?

Bill Flaherty - Second

Vincent Cestone - All those in favor

All Board Members - Aye

Vincent Cestone - Opposed

(no reply)

Vincent Cestone - I make a motion to adjourn

Lenny Lim - Second

Vincent Cestone - All those in favor

All Board Members - aye

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,
DRAFT
Kim Shewmaker
Secretary

ZBA APPLICATION, MEETING AND APPROVAL PROCEDURES

When applying to the Zoning Board of Appeals, there is generally a regular set of steps that will be followed, hopefully ending in the approval of your application.

- Step 1. Obtain the application form from the Code Enforcement Department
- Step 2. Fill out the form to the best of your ability. The Department will assist you as necessary.
- Step 3. Return all required documents for your application, the application fee and the escrow fee to Code Enforcement. Application must be received a minimum of one week prior to a scheduled meeting.
- Step 4. Code Enforcement will forward your application to the ZBA.
- Step 5. You will receive correspondence from the ZBA informing you of your **first** meeting date. Meetings are held on the second and fourth Monday of each month, at Town Hall, second floor, at 7:30pm, unless otherwise stated. This **first** meeting will be for the ZBA to review your application for completeness only. ***It is strongly recommended that you attend this meeting to insure all documentation has been submitted and is in order.***
- Step 6. If the ZBA deems your application complete, they will schedule your **second** meeting, which will be your actual public hearing. At the **second** meeting, you will explain your case to the ZBA and answer any questions they may have.
- Step 7. The ZBA may require more than one public hearing to decide your case. If so, you will be advised of any further public hearings.
- Step 8. When the ZBA is satisfied that it has all necessary information, they will close the public hearings and take a vote on your case, whether to approve or deny your application.
- Step 9. After your final vote is taken by the ZBA you should return to the Code Enforcement Department for further instructions and assistance

Honda
Appeal

NOTICE TO APPLICANTS

READ ALL INFORMATION ON THIS APPLICATION CAREFULLY. WE WILL ASSIST YOU AS MUCH AS POSSIBLE, BUT IT IS NOT OUR RESPONSIBILITY TO GATHER INFORMATION, MAKE COPIES OR ASSEMBLE APPLICATION PACKAGES.

All submissions to the Zoning Board of Appeals must be submitted a minimum of two calendar weeks prior to being placed on the agenda for review.

The initial review of the application by the Board will be to insure completeness of the application only. If the application is deemed complete, a public hearing date will be set and the applicant will be so notified. If the application is deemed incomplete for any reason, the applicant will be notified of the additional requirements of the Board.

The application must contain detailed directions to the property to enable the Board members to make site visits as required. The property must also be properly posted with the correct 911 address as required by the town code.

A copy of the Zoning Code and Zoning Map is available in the office of the Town Clerk.

Be prepared to present facts and any additional information the Board may need at the time of the public hearing.

All applications for a SPECIAL USE PERMIT must also be referred to the Town Planning Board. This will be done by the clerk of the Zoning Board.

FEES: payable at time of application – Variance - \$200.00

Interpretation - \$200.00

Special Use Permit - \$ 500.00

ESCROW: \$ 1000.00

Payable at time of application;

Returnable after adoption of final ZBA resolution and payment of any consulting fees incurred

APPEAL # 878 Tax Map # 49.-3-63

Final hearing date _____ Zoning Board decision APPROVED / DENIED

Date application submitted 3-9-12

Application fee \$ ¹⁰⁰⁻200 Escrow \$ 1000 Received by mmz

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), Andrew & Susan Homola

residing at 24 Woodland Drive

Telephone: home _____ business _____

HEREBY appeal the decision of (name and title) Kevin Donohue, CFM

whereby he/she

GRANTED _____ DENIED a BUILDING PERMIT _____ a CERTIFICATE OF OCCUPANCY _____

For _____

To _____

of _____

For property at tax map # 49.-3-63 in zoning district A-80

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

1.) Location of Property: 24 Woodland Drive Garrison, NY

From the Town Hall in Cold Spring: Take a right onto Main street to Rte 9D south.

Take a left at the light onto Rte 9D south

Travel approximately 2 miles and take the first right after Boscobel restoration onto Indian Brook Rd.

Travel on Indian Brook Rd about 3 miles and take a left onto Woodland Drive. Woodland Drive is across from Ayery Rd)

Travel up the hill about 300 yards and take a right into the driveway with the white house:

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

Chuck and Diana Roda

Liz and Bob Convertino

Jerry Edelstein

~~Chuck & Elizabeth Osborne~~

Jane Genth

Walter Yetnikof

34 Woodland Drive Garrison, NY 10524

50 Woodland Drive, Garrison NY 10524

14 Woodland Drive Garrison, NY 10524

101 Round Hill Rd Cold Spring, NY 10516

4601 Henry Hudson Pkwy Riverdale, NY 10471

181 East 90th St Apart#24B New York, NY 10128

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code)

Zoning law 175-304(1)

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

N/A

TYPE OF APPEAL:

an INTERPRETATION of the Zoning Code or Maps

a VARIANCE from the Zoning Code

a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

N/A

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

Request for variance: We would like to increase the height of a deer fence around the back of our property from 6' to 8', without setback.

We would like to install a deer fence around the perimeter of our property to protect our vegetable garden, investment in landscaping and to keep deer and ticks at a safe distance from our house and outdoor living space.

(2) The grounds on which this variance should be granted are:

- 1.) **There is extensive research that indicates deer fencing should be a minimum of 8 feet tall especially where the length of the fenced area is more than 50 feet.**
- 2.) **As victims of lymes disease, we would like to minimize any further impact of deerborn ticks on ourselves, our children and our pets.**

As can be seen from the attached photo and survey, our property is a wide open field. To adhere to setback requirements, we would have to dissect the field which is used for soccer, sleigh riding and cross country

(1) The reason the permit is requested:

N/A

(2) An exact statement of use for which the permit is requested:

N/A

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

N/A

STATE OF NEW YORK, COUNTY OF PUTNAM ANDREW + SUSAN HOMOLA

being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made herein are true to the best of my knowledge and belief.

[Signature]
Signature of applicant or agent

Sworn before me this 9th day of March 2000 2012

Notary, _____ County, Putnam

[Signature]

TINA M. MERANDO
NOTARY PUBLIC, STATE OF NEW YORK

QUALIFIED IN PUTNAM COUNTY
COM EXP. RES JUNE 9 2015

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

- ① Completed appeal form
- ② Deed to property
- ③ Denied application for Building Permit or Certificate of Occupancy
- ? 4. Building plans with ONE ORIGINAL professional seal and signature
- ⑤ Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
- ? 6. Certificates of Occupancy for any existing structures
- ⑦ Contour maps as required by conditions
8. Photos
9. Letter of agreement conditional on easements
- 10.

PHILIPSTOWN ZONING BOARD OF APPEALS
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?
How close are nearby structures? - Will your structure be visible to others or will it block a view? - Do you propose exterior lights?

_____ 1a.) Our requested variance to increase the height of a fence from 6 feet to 8 feet would offer no detriment to nearby properties.
_____ The nearest and only visible neighbor, Jerry Edlestein, agrees with the location of the fence and this variance request. The closest structure is Mr. Edlestein's house, which is approximately 300 feet from the proposed location of the fence. The fence will not block any views and is visible to only the Edlestein. We will not be using exterior lights.

1b. What impacts would the variance have on the character of the neighborhood?
Have others in the neighborhood received similar variances? - Does the neighborhood contain similar structures with similar setbacks/heights etc.?
Is your property similar to or different from others in the area? - If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

_____ 1b. The variance would have no impact on the character of the neighborhood because the fence will blend into the woods and tree line. The fence will be see-through and will be made with "bark on cedar posts" with a 1 inch square wire. We are not aware of similar variances.
_____ The neighborhood contains a similar structure on Avery Road. Our property is 5 acre zoning with only the Edlestein house visible from our property. The other side of our property is surrounded by 70 acres of forest and steep slopes. The neighborhood would not be changed if neighbors were to receive similar variances, as the houses on our drive are not visible to each other due to the land and forest between them. Our property is on a private drive, not visible from the town road.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?
For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

_____ 2.) If we did not receive the variance we would not be able to build the shorter 6 foot fence because it would not serve the purpose of keeping deer out. There is significant research that has determined that deer fencing must be a minimum of 8 feet to be effective. Alternatively we could not build an 8 foot fence with the required setback as it would dissect our lawn as evidenced in the attached photo and would inhibit its many uses such as for soccer and sleigh-riding. Additionally, the beauty of the great lawn would be ruined by having a fence going through the center.

3. What is Code requirement you seek to vary?

_____ 3.) The code requirement we seek to vary is Philipstown Zoning law section 175-30H(1). This allows fences less than six feet high on any side or rear yard, except where corner clearance as required for traffic safety.
How large c _____ We request a variance from the six-foot requirement to allow us to increase to 8 foot without the required setback.

What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

4.) There is no impact or effect on the current physical or environmental conditions in the area. There is no grading, blasting, or paving proposed. There will be no removal of vegetation or impact on wetland. Normal drainage patterns will not be affected. The nearest well is approximately 300 feet from the fenced area. The nearest septic is approximately 250 feet from the proposed fenced area. The proposed fence will not produce emissions either odor or noise. There will be no increase in traffic. The area is scenic which is why the location of the fence on the property line protects the aesthetic of the "great lawn".

5. Is the variance requested as a result of a "self-created hardship"?
Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit?
Is the need for a variance as a result of someone's mistake? Describe

5.) The variance request is not based on self created hardship. The variance was needed when we bought the house in 1991, however due to economic reasons we were not able to address it at the time. We did not build any structure without a permit. The need for the variance is not as a result of someone's mistake. We are installing this fence in conjunction with our neighbor Jerry Edlestein who is also filing a similar request for variance.



Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

February 9, 2012

Andrew and Susan Homola
24 Woodland Drive
Garrison, NY 10524

Re: Installing an 8' high fence
Location: 24 Woodland Drive
Tax Map: #49.-3-63

I have received your letter dated February 6, 2012 seeking to install an 8 foot high 50' long deer fence along your rear property line.

Please be advised that the Town of Philipstown Zoning Law section 175-30 H (1). allows fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.

175-30 H. Fences and walls.

(1) The setback requirements of this chapter shall not apply to retaining walls of any height or to fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.

(2) The setback requirements of this chapter shall not apply to any front yard fences or walls less than four feet high, except that customary agricultural wire, board, or split-rail fencing which does not obstruct visibility may be higher.

175-74 DEFINITIONS

Fence, A structure or partition erected for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous properties.

Yard, Rear: An open space extending across the full width of the lot between the rear lot line and the wall of the principal building nearest the rear lot line.

The installation of an 8 foot high fence in the rear yard is hereby **DENIED** for nonconformance with section 175-30 H (1).

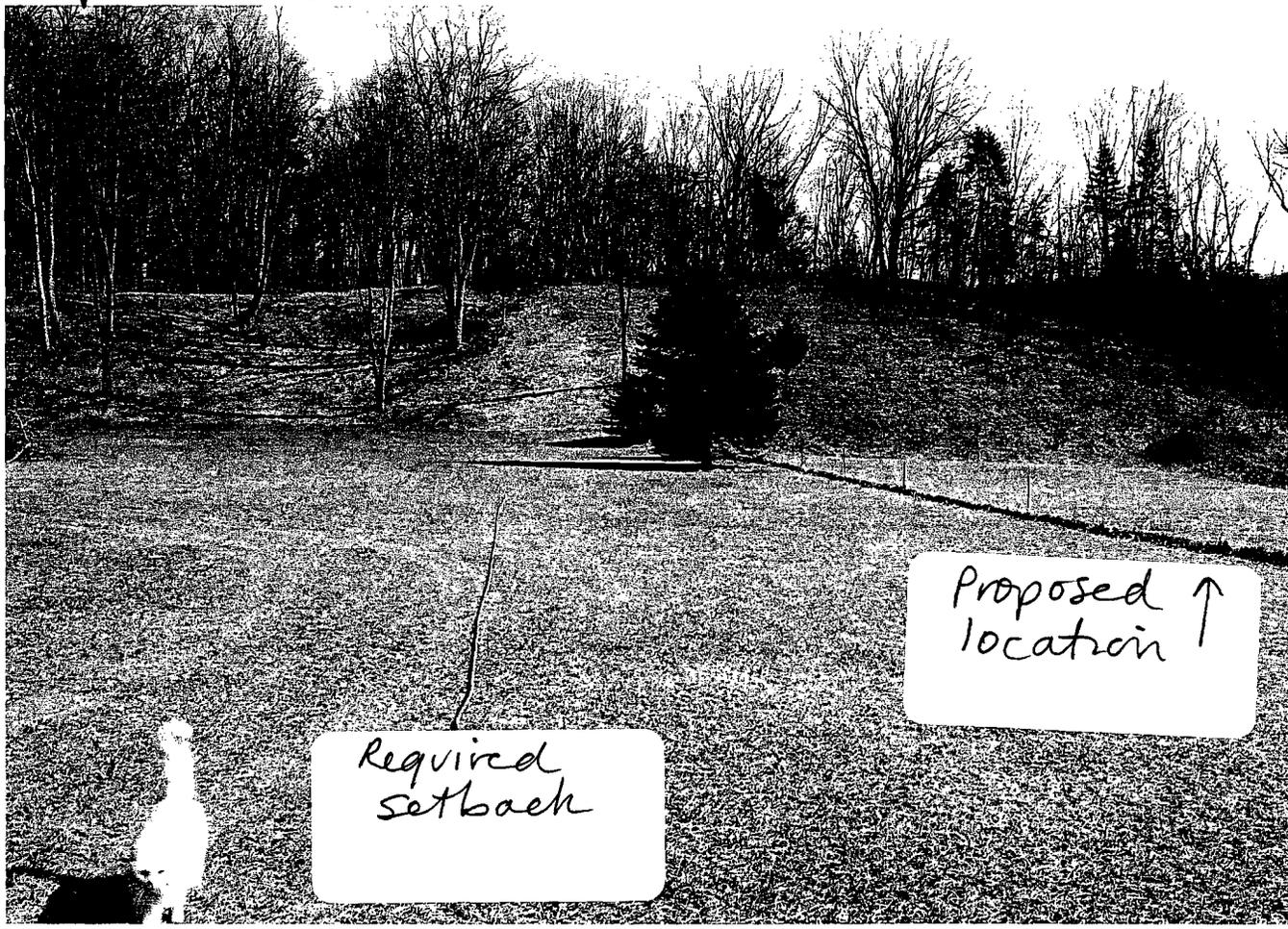
If YOU ARE AGRIEVED THIS DECISION you may submit an application to the Zoning Board of Appeals, pursuant to the provisions of Article IV of the Code of the Town of Philipstown, to appeals from and review any order, requirement, decision or determination made by the CODE ENFORCEMNET OFFICER within sixty (60) days of the date on this letter. An application for the Zoning Board of Appeals is enclosed.

If you have any question you may contact my office at (845) 265-520.

A handwritten signature in cursive script that reads "Kevin Donohue".

Kevin Donohue, CFM
Code Enforcement Officer

View east



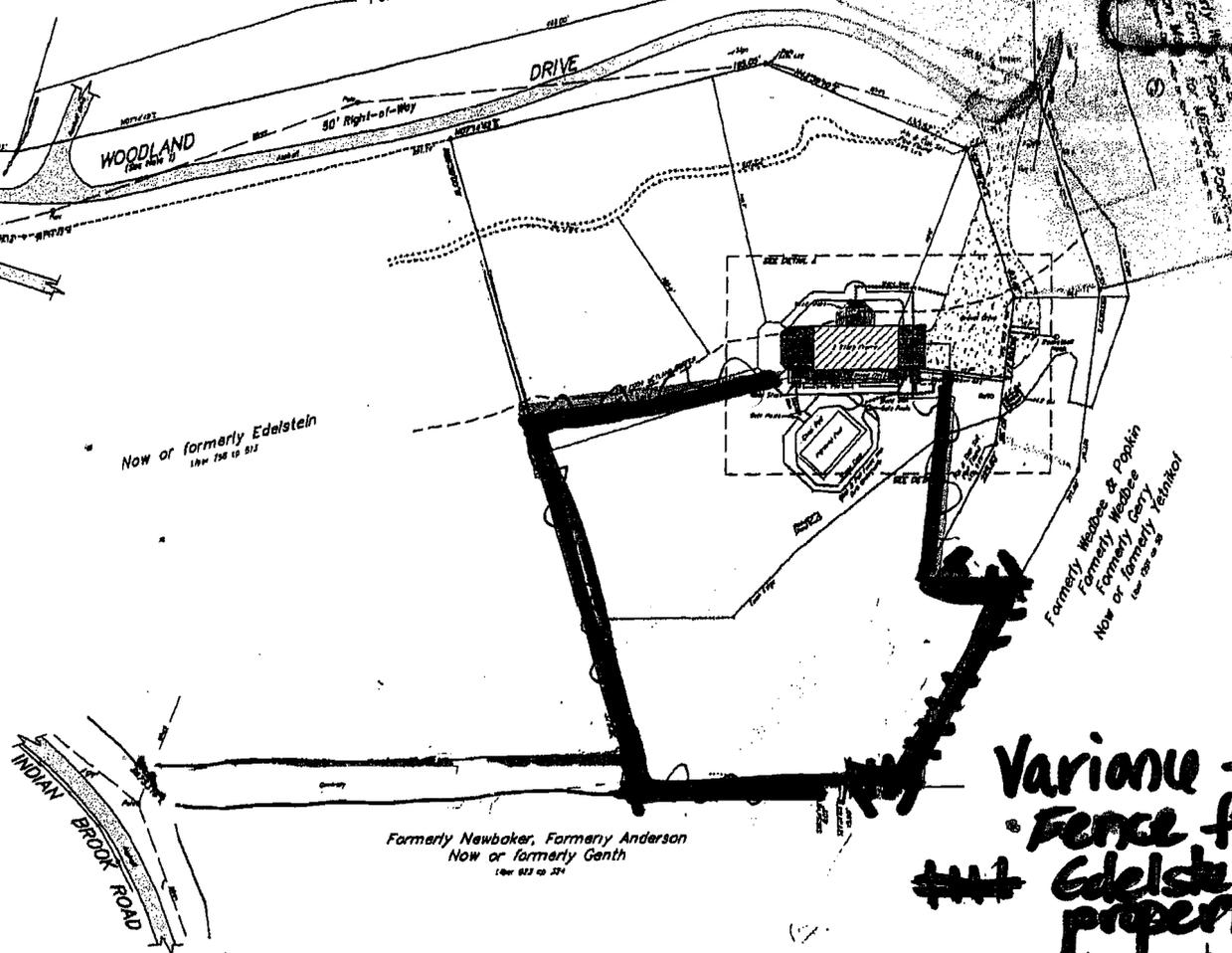
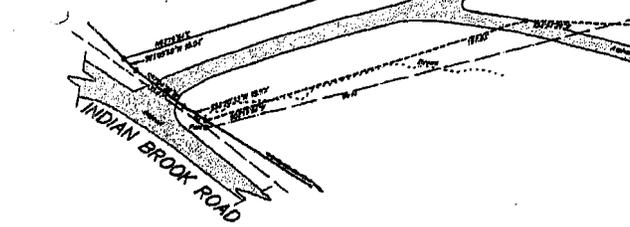
View west

↑ setback

Map of Lib. 1127 of 303

Formerly McParton, now or formerly Collins
See Subdivision Plat prepared for Roger Marr Associates, Inc.
Filed in the Putnam County Clerk's Office on August 10, 1958 as Map No. 2358

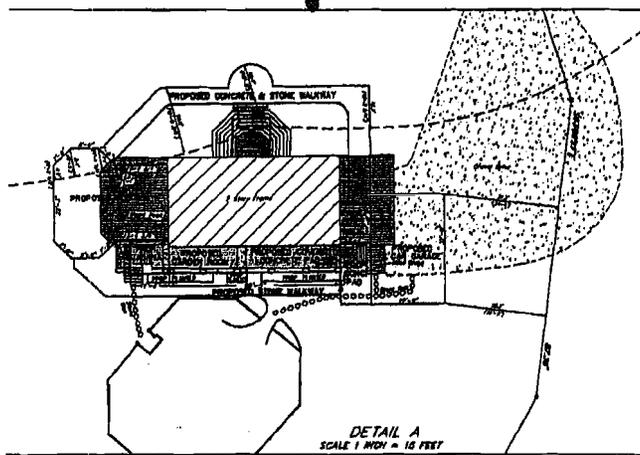
Formerly Carlson, Now or formerly Crowder
Lib. 172 of 1023



Now or formerly Edelstein
Lib. 156 of 512

Formerly Newbaker, Formerly Anderson
Now or formerly Ganth
Lib. 512 of 274

Formerly Hedges & Popkin
Formerly Hedges
Formerly Gentry
Now or formerly Yashkol
Lib. 285 of 28



DETAIL A
SCALE 1 INCH = 16 FEET

Area = 2.429 Acres

- Notes
1. COPYRIGHT "2008" by BADEY & WATSON, Surveying & Engineering, P.C. All rights reserved. Unauthorized duplication is a violation of applicable laws.
 2. Unwarranted alteration or addition to a document prepared by a licensed land surveyor is a violation of Section 7200, Subdivision 2 of the New York State Education Law.
 3. All certificates are void for this map and copies thereof only if not map or copies bear the embossed seal of the surveyor whose signature appears hereon.
 4. If underground improvements, easements, or encroachments exist and are neither visible during normal field survey operations nor described in instruments provided to these surveyors, they may not be shown on this map.
 5. This property may be affected by instruments which have not been provided to these surveyors. Users of this map should verify title with their attorney or a qualified title examiner.
 6. This survey is of property described in the Putnam County Clerk's Lib. 1127 of 303 (Map & Part to Homola).
 7. The 50' Right-of-Way was delineated by the Town of Philipstown as mandated during the road identification program necessary to the installation of Putnam County's 911 emergency response system.
 8. Revised on January 16, 2008 to show proposed wall, outcrop barrier, and additional effects and dimensions. Survey was not brought to date.

**Variance for
Fence for
Edelstein
property
variance for
Hand
Fence**

SURVEY OF PROPERTY
PREPARED FOR
SUSAN MOSS HOMOLA
AND
ANDREW P. HOMOLA
SITING IN THE
TOWN OF PHILIPSTOWN
PUTNAM COUNTY
NEW YORK
SCALE 1 in. = 30 ft. JANUARY 16, 2008

We hereby certify that the survey shown hereon was completed by us on January 16, 2008. That this map was completed on January 15, 2008 and that the survey has been prepared in accordance with the existing Code of Practice for Land Surveying adopted by the New York State Association of Professional Land Surveyors, Inc. Resolved on January 16, 2008. See Note 8.

BADEY & WATSON
SURVEYING & ENGINEERING, P.C.
NEW YORK STATE LICENSED LAND SURVEYORS
LICENSE No. 40653

Map was prepared for the evaluate
if and it not used may be
SAN MOSS HOMOLA
DREW P. HOMOLA

BADEY & WATSON, Surveying & Engineering, P.C.

200 West 9th St. New York, NY 10014 (212) 691-1000 (212) 691-1001 (212) 691-1002	100 West 10th St. New York, NY 10014 (212) 691-1003 (212) 691-1004 (212) 691-1005
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Anne R. Lawrence

ATTORNEY AT LAW
81 MAIN STREET
P.O. BOX 313
COLD SPRING, NEW YORK 10516
(914) 265-9232

July 11, 1991

Mr. and Mrs. Andrew P. Homola
Indian Brook Road
Garrison, New York 10524

Re: Homola -from- Rush

Dear Andrew and Susan:

Enclosed herein please find the original Deed dated June 18, 1991 from Marilyn Rush, Jamie Victor Harr and Eric Bryant Harr to Andrew P. Homola and Susan Moss Homola in connection with the above-captioned matter. The Deed has been recorded in the Office of the Putnam County Clerk in Liber 1127 at Page 305 on June 26, 1991.

Very truly yours,


Anne R. Lawrence

ARL/ms

Enclosure

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 18th day of June, nineteen hundred and ninety-one BETWEEN MARILYN RUSH, formerly known as MARILYN ANN HARR, JAMIE VICTOR HARR and ERIC BRYANT HARR, residing at 5454 East Justine Road, Scottsdale, Arizona 85254,

party of the first part, and ^{husband} ANDREW P. HOMOLA and SUSAN MOSS HOMOLA ^{wife} residing at 435 West 57th Street, New York, New York 10019,

TT
840

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

See Schedule "A" Annexed

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Marilyn A. Rush
MARILYN RUSH, formerly
MARILYN ANN HARR

Jamie Victor Harr
JAMIE VICTOR HARR

Eric Bryant Harr
ERIC BRYANT HARR

ROMBOUT ABSTRACT
831-3997
RAD 6006

ARIZONA

STATE OF NEW YORK, COUNTY OF MARICOPA

ss:

STATE OF NEW YORK, COUNTY OF

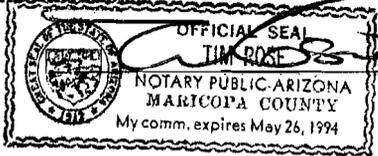
ss:

On the 18th day of June 19 91, before me personally came MARILYN RUSH, JAMIE VICTOR HARR and ERIC BRYANT HARR

On the day of 19, before me personally came

to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.



N.P.

STATE OF NEW YORK, COUNTY OF

ss:

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

On the day of 19, before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

that he knows

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS TITLE No.

SECTION Tax Map 43
BLOCK 1
LOT 6.12
COUNTY OR TOWN Town of Philipstown Putnam County

MARILYN RUSH, JAMIE VICTOR HARR and ERIC BRYANT HARR

Recorded at Request of COMMONWEALTH LAND TITLE INSURANCE COMPANY

TO

ANDREW P. HOMOLA and SUSAN MOSS HOMOLA

RETURN BY MAIL TO:



ANNE R. LAWRENCE, ESQ.
41 Albany Post Road
P.O. Box 313
Cold Spring, New York
Zip No. 10516

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

RECEIVED ON THE 26 DAY OF JUNE 1991
AT 8:45 AM A.M. RECORDED IN
BOOK No. 1127 OF Deeds
AT PAGE 305 AND EXAMINED

Joseph J. Tolson
CLERK

RECEIVED
\$ 840.00
REAL ESTATE
JUN 26 1991
TRANSFER TAX
PUTNAM
COUNTY

21 JUN 26 8 45 AM '91

22.00
840.00
TTX
PUTNAM COUNTY
CLERK'S OFFICE

ALL that certain plot, piece or parcel of land situate, lying and being in the TOWN OF PHILIPSTOWN, County of Putnam and State of New York, being further bounded and described as follows:

BEGINNING at a point on the northerly side of Indian Brook Road where it is intersected by the westerly line of lands now or formerly of Genth;

THENCE along the northerly side of Indian Brook Road South 67-53-16 West a distance of 30.10 feet to a point;

THENCE along the lands now or formerly of Edelstein the following two (2) courses and distances:

1. North 19-00-00 East a distance of 294.38 feet to a point;
2. North 86-30-00 West a distance of 379.80 feet to a point;

THENCE along a 50 feet wide Right of Way the following five (5) courses and distances:

1. North 7-14-42 East a distance of 195.05 feet to a point;
2. North 42-39-10 East a distance of 130.52 feet to a point;
3. South 87-48-24 East a distance of 93.48 feet to a point;
4. South 63-06-27 East a distance of 87.38 feet to a point;
5. South 41-20-10 East a distance of 225.62 feet to a point;

THENCE along the aforesaid line of lands now or formerly of Genth the following six (6) courses and distances:

1. South 16-54-10 West a distance of 59.20 feet to a point;
2. South 18-43-09 West a distance of 47.36 feet to a point;
3. South 18-42-16 West a distance of 37.95 feet to a point;
4. South 16-55-42 West a distance of 56.07 feet to a point;
5. South 20-21-10 West a distance of 142.22 feet to a point;
6. South 15-31-54 West a distance of 44.37 feet to the

point or place of BEGINNING.

Together with a right of way in common with others over a 50 foot wide Right of Way bounded and described as follows

BEGINNING at a point on the northerly side of Indian Brook Road where the same is intersected by the westerly line of lands now or formerly of Edelstein;

THENCE along the northerly side of Indian Brook Road the following three (3) courses and distances:

1. South 52-20-33 West a distance of 15.59 feet to a point;
2. South 57-04-59 West a distance of 35.67 feet to a point;
3. South 65-05-58 West a distance of 10.04 feet to a point;

THENCE along the lands now or formerly of McParlan and now or formerly of Crowder the following two (2) courses and distances:

1. North 2-19-54 East a distance of 241.98 feet to a point;
2. North 22-37-20 East a distance of 91.35 feet to a point;

THENCE along the lands now or formerly of Crowder the following two (2) courses and distances:

1. North 7-14-42 East a distance of 466.00 feet to a point;
2. North 42-39-10 East a distance of 169.55 feet to a point;

THENCE along the lands now or formerly of Roda and now or formerly of Gerry South 87-48-24 East a distance of 127.05 feet to a point;

THENCE along the lands now or formerly of Gerry the following two (2) courses and distances:

1. South 63-06-27 East a distance of 107.94 feet to a point;
2. South 41-20-10 East a distance of 211.48 feet to a point;

THENCE along the lands now or formerly of Genth the following three (3) courses and distances:

1. South 22-48-06 West a distance of 31.48 feet to a point;
2. South 27-21-03 West a distance of 15.90 feet to a point;
3. South 16-54-10 West a distance of 8.07 feet to a point;

THENCE along the above described premises the following five (5) courses and distances:

1. North 41-20-10 West a distance of 225.62 feet to a point;
2. North 63-06-27 West a distance of 87.38 feet to a point;
3. North 87-48-24 West a distance of 93.48 feet to a point;
4. South 42-39-10 West a distance of 130.52 feet to a point;
5. South 7-14-42 West a distance of 195.05 feet to a point;

THENCE along the aforesaid lands now or formerly of Edelstein the following three (3) courses and distances:

1. South 7-14-42 West a distance of 261.74 feet to a point;
2. South 22-37-20 West a distance of 89.15 feet to a point;
3. South 2-19-54 West a distance of 197.83 feet to the

point or place of BEGINNING.

APPEAL # 879 Tax Map # 60.18-1-46

Final hearing date _____ Zoning Board decision APPROVED / DENIED _____

Date application submitted 3-13-12

Application fee \$ 100⁰⁰ Escrow \$ _____ Received by mol

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), Drake Petroleum Co. / Garrison Foreign & Domestic Station

residing at 1122 Rt 9D Garrison, NY 10524

Telephone: home _____ business _____

HEREBY appeal the decision of (name and title) _____

whereby he/she

GRANTED _____ DENIED _____ a BUILDING PERMIT _____ a CERTIFICATE OF OCCUPANCY _____

For _____

To _____

of _____

For property at tax map # _____ in zoning district _____

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

1122 RT 9D Garrison, NY 10524

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code)

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

TYPE OF APPEAL:

_____ an INTERPRETATION of the Zoning Code or Maps

a VARIANCE from the Zoning Code

_____ a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the Interpretation requested is:

N/A

~~(b) a VARIANCE from the Zoning Code is requested:~~

(1) An exact statement of the details of the variance requested is:

Pylon sign sets 23' from street. we request to keep sign in the same spot.

(2) The grounds on which this variance should be granted are:

1122 RT 9D. Garrison, NY 10524

(c) a SPECIAL USE PERMIT is requested:

(1) The reason the permit is requested:

N/A

(2) An exact statement of use for which the permit is requested:

N/A

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

N/A

STATE OF NEW YORK, COUNTY OF PUTNAM _____

being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief.

Signature of applicant or agent

Sworn before me this _____ day of _____ 2000

Notary, _____ County, _____

SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions



PHILIPSTOWN ZONING BOARD OF APPEALS
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?

How close are nearby structures? - Will your structure be visible to others or will it block a view? - Do you propose exterior lights?

1b. What impacts would the variance have on the character of the neighborhood?

Have others in the neighborhood received similar variances? - Does the Neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? - If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?

For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

We could put in a monument sign 4'H x 6'W This would require new foundation we could have the sign as proposed. But move back 30' from street. Set back in parking! Requires two new foundations & piles. Or we could reface the current sign. but will have trouble with power box for LEDs these are one sided prices with trim cabinet.

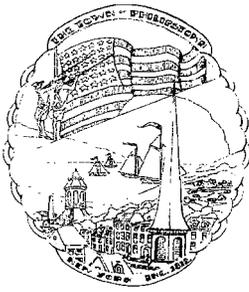
3. What is Code requirement you seek to vary? _____

How large of a variance do you seek? _____

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? - Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

None

5. Is the variance requested as a result of a "self-created hardship"?
Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit?
Is the need for a variance as a result of someone's mistake? Describe



Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

March 13, 2012

NW Sign Industries
360 Crider Ave,
Moorestown, NY 08057

Re: Building/Zoning Permit Application for Sign
Location: 1122 Route 9D
Tax Map: #60.18-1-46

A Building/Zoning Permit Application for a sign was received on March 13, 2012 and includes the following information;

1. Application for Building/Zoning Permit.
2. Seven Pages Sign Plans from NW Sign Industries.
3. Planning Board Approved Site Plan from Xtramart Convenience Stores.

1122 Route 9D is located in the HM (Hamlet Mixed-Use) zone with a required front yard setback of 30 feet from the centerline of a State Road. The survey indicates a new two pole sign to be placed on the footing of the existing single pole sign which is 23' from the centerline of Route 9D.

This Building Permits application is hereby **DENIED** for nonconformance with section 175-11 Schedule B for setback requirements.

If YOU ARE AGRIEVED THIS DECISION you may submit an application to the Zoning Board of Appeals, pursuant to the provisions of Article IV of the Code of the Town of Philipstown, to appeals from and review any order, requirement, decision or determination made by the CODE ENFORCEMENT OFFICER within sixty (60) days of the date on this letter. An application for the Zoning Board of Appeals is enclosed.

If you have any question you may contact my office at (845) 265-520.

Kevin Donohue, CFM
Code Enforcement Officer



Town of Philipstown
 Code Enforcement Office
 238 Main Street, PO Box 155
 Cold Spring, NY 10516
 Office (845) 265- 5202 Fax (845) 265-2687

091211

2011

APPLICATION FOR BUILDING AND ZONING PERMIT

Tax Map # 60.18-1-46 Date Received: _____

Construction Located at: 1122 Rt 9 Garrison or Cold Spring

Owner: Drake Petroleum Corp. Phone Number: _____

Mailing Address 221 Quinebaug Rd., North Grosvenordale, CT 06255

Authorized Agent: NW Sign Industries Phone Number: 865-293-6028

Mailing Address 360 Crider Ave Moorestown, NJ 08057

Description of Work: Re-image site from Getty to Elf 10x6' Freestanding

Occupancy Classification: _____ Construction Classification: _____ Number of Stories: _____ Building Area: _____ sqft

New Const: _____ Addition: _____ Repair/Replacement: _____ Alteration: _____ Change in Use: _____ Demolition: _____

* Signs

Heating Appliance: _____ Electrical, Mechanical, Plumbing: _____ Wood Stove: _____ Oil or LP Tank: _____

Zoning District: _____ Located within Special Flood Hazard Zone: _____ Located within 100feet Wetland/Watercourse: _____

Area of Land Disturbance: _____ sq.ft. Estimated Value of Construction \$ 13,553.87

Putnam County Licensed # for Home Improvement, Plumbing, HVAC, LP Gas and Electrical Contractor only (PCL#)

Design Professional: _____ Phone _____

NW Sign → General Contractor: NW Sign Industries Phone 845-8021677 PCL# _____

Electrician → Subcontractor: Tyler Service Corp Phone 203-740-8200 PCL# R05711

Subcontractor: _____ Phone _____ PCL# _____

I hereby make application for a permit and all information entered above is true and accurate. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of this application for a permit. I understand that as the permit holder, I shall immediately notify the Code Enforcement Official of any change occurring during the course of the work and further understand that if the Code Enforcement Official determines that such change warrants a new or amended permit, such change shall not be made until and unless a new or amended permit reflecting such change is issued.

Chanda Hymas

2/6/12

Owner/Authorized Agent Signature

Date

Make Checks Payable To: Town of Philipstown (Office Use)

Chargeable footage: _____ sqft. FEES 338.85 Received Date _____ 2011

When the application for permit has been examined and the proposed work is deemed in compliance with the applicable requirements of the Uniform Code, Energy Code and the Code of Town Philipstown, the Code Enforcement Official shall endorse this application by signature and date which hereby authorizes the issuance of said permit when payment of FEES are received and duly recorded.

Kevin Doolittle 2/14/12

Code Enforcement Officer Signature

Date

BUILDING PERMIT NUMBER: _____

Tyler - 254-813-7238

LANDS N/F OF
DOWNEY
BOOK 997 OF DEEDS AT PAGE 97

LEGEND:
☀ Light Post
⊙ Utility Pole
⊙ Monitoring Well
⊙ Tank Filler

Anthony Merante
A. Merante,
Planning Board Chairman
Date 1/3/2012

CONVEYED TO ARROW OIL CORPORATION BY DEED DATED MAY 22, 1988
AND RECORDED IN BOOK 687 OF DEEDS T PAGE 399.

NOTES:
1. THIS MAP IS PREPARED FROM AN ACCURATE FIELD SURVEY. VEHICLES PARKED ON THE PREMISES MAY HAVE OBLSCURED SOME PHYSICAL FEATURES ON THE SITE. UNDERGROUND UTILITIES ARE NOT SHOWN.
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE.

Unauthorized Alterations or Additions to this survey map is a violation of Section 7209 of the New York State Education Law. Copies of this survey map not bearing the Land Surveyors Embossed Seal shall not be considered valid copies.

PROGRESS PRINT

JAMES J. WHITE, L.S. No. 50,026

Xtramart
CONVENIENCE STORES
GARRISON @ ROUTE 9D, SITE NO. 21

TOWN OF PHILIPSTOWN, PUTNAM COUNTY, NEW YORK

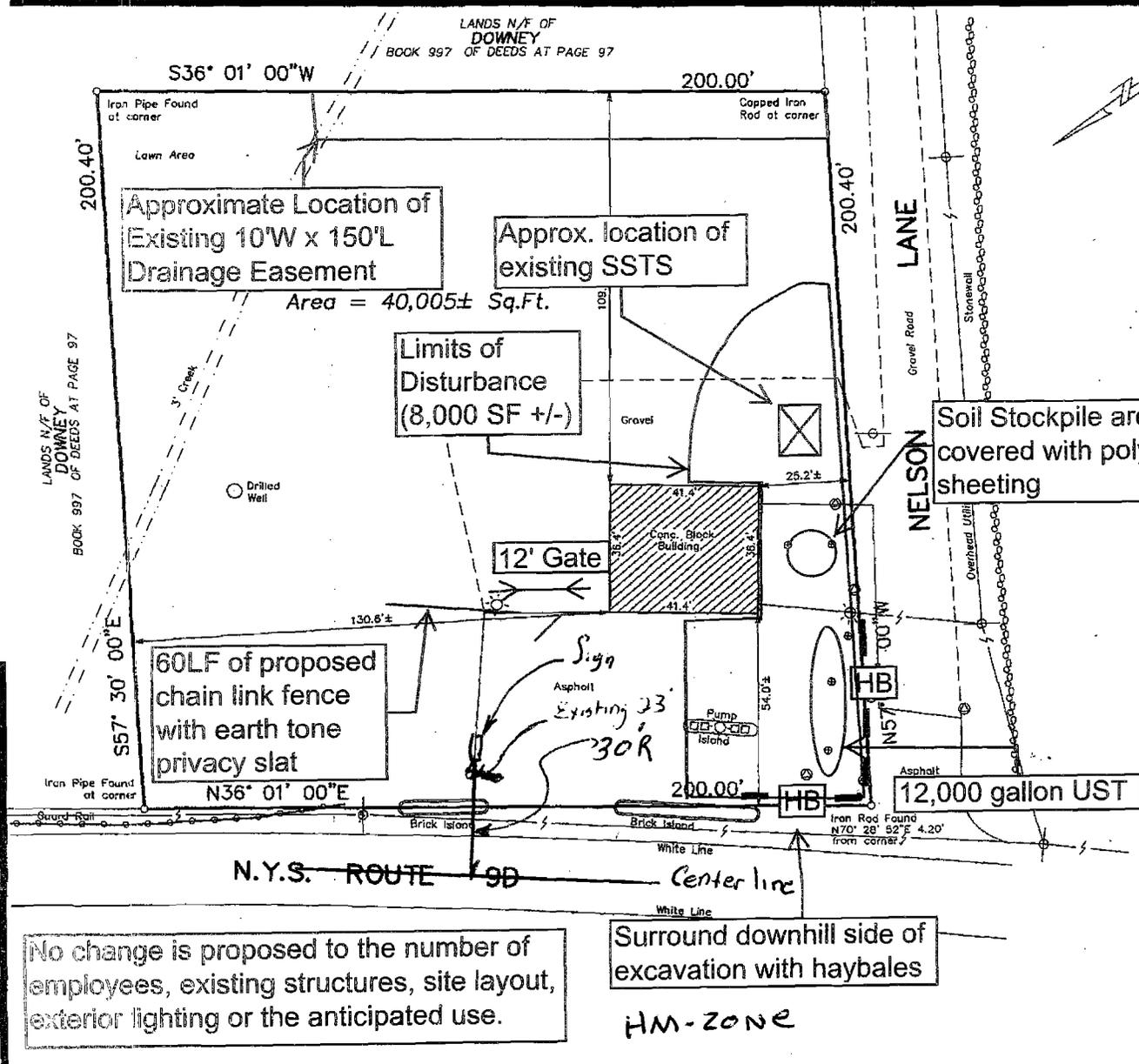
Prepared For:
MID VALLEY OIL Co.
P.O. Box 4092
New Windsor, NY 12553

BDG
BROADWAY DESIGN GROUP PLLC
Architecture Engineering Surveying Planning Landscape Design
1319 Route 9N Saratoga Springs New York 12866
phone (518) 584-1300 fax (518) 584-1374

date	REVISIONS

Drawn by: JJW
Scale: 1" = 30'
Date: 5/8/97

Drawing No. **S-1** OF 1
Project No. 97-33



No change is proposed to the number of employees, existing structures, site layout, exterior lighting or the anticipated use.

Surround downhill side of excavation with haybales

HM-ZONE

Project: Drake Petroleum Corp., Inc.
Underground Storage Tank (UST) Replacement

01/03/12

Owner: Drake Petroleum Corp., Inc.
221 Quinebaug Road

Sign Permit
RECEIVED
FEB 11 2011
TOWN OF PHILIPSTOWN
BUILDING DEPARTMENT

No agricultural District is known to be present within 500' of the subject parcel

***Tanks and excavated material will be removed and disposed of in accordance with local, state, and federal standards. A dumpster is located on site for trash and other garbage.

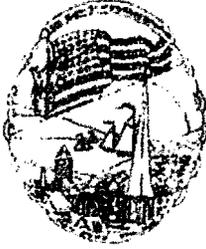
ZONING: The Subject Parcel and surrounding properties are located in the HM Hamlet Mixed-Use Zone. The parcel is located in the Regional Aquifer Subdistrict

Philipstown Zoning Law, Revised Draft: April 4, 2011, showing changes to the November 23, 2010 draft
DIMENSIONAL TABLE

	DISTRICT								
	RC	RR	HM	HR	SR	HC	OC	M	IC
Maximum density <i>(conservation)</i> (1)	5 ac/du`	3 ac/du	--	--	40,000 sf	--	--	--	20ac/du
Minimum lot size <i>(conventional/ODA)</i> (2)	10 ac.	5 ac.	(4)	(4)	40,000 sf.	40,000 sf.	2 ac.	5 ac.	20 ac.
Minimum lot size <i>(conservation)</i> (3)	(4)	(4)	--	--	(4)	--	--	--	(4)
Minimum road frontage for conventional subdivision (5)									
Town road	250	250	40	40	200	200	200	200	200
County/State road	300	400	50	50	200	300	200	200	200
Open Development Area ROW	100	100	--	--	--	--	--	--	--
Minimum front yard setback									
Town Road (6)	60	60	25	25	50	25	50	100	50
County/State road (6)	60	60	30	40	75	35	100	100	100
Minimum side yard setback ⁽³⁾	30	30	10 ⁽¹¹⁾	10 ⁽¹¹⁾	30	15 ⁷	20 ⁷	50 ⁷	50
Minimum rear yard setback ⁽³⁾	50	50	15	10	25	35 ⁷	35	50	50 ⁷
Setback in Conservation Subdivision	See §175-20E				See §175-20E			See §175-20E	
Maximum impervious surface coverage (8)	10%	10%	50%	30%	20%	60%	60%	30%	10%
Maximum height (9)	40	40	40	40	40	40	40	40	40
Maximum footprint <i>(in square feet)</i> for non-residential structures (10)	6,000	4,000	10,000 ⁽¹²⁾	5,000	5,000	40,000	200,000	--	--

ALL DIMENSIONS IN FEET UNLESS OTHERWISE INDICATED.

- (1) The abbreviation "ac/du" stands for "acres per dwelling unit." This figure is also used as the minimum lot size for purposes of a "yield plan." See Article V.
- (2) For conventional subdivision as described in §175-19A. See §112-33B of the Land Development Regulations for ODA lots.
- (3) Conservation subdivision as described in §175-19B. Minimum lot size is determined under the provisions of §175-11, not this table.
- (4) Varies based upon availability of municipal water and sewer services; see §175-11D.
- (5) Flag lots and lots in conservation subdivisions may have shorter frontages. See §175-20 and §175-22. Minimum frontage on a cul-de-sac is 25 feet.
- (6) Measured from centerline of the traveled way as it existed at the date of the building permit (or of construction if built before a building permit was required). Front yard setbacks may be adjusted by the Planning Board or Zoning Board of Appeals to prevailing setbacks in the immediate neighborhood on all roads; a maximum setback or "build-to line" may be established to maintain the "street wall" in the HM and HR Districts. (See §175-30J for US Rt. 9 setbacks.)
- (7) Wooded buffer required if lot abuts a residential district. See §175-65D(2)
- (8) See definition in §175-74; applies to each lot and to an entire subdivision, including new roads and other public areas (see §175-20F); in Conservation Subdivisions applies to entire subdivision only. This requirement may be waived by the Planning Board for lots in the HM District and shall not apply to pre-existing non-conforming lots. For flexibility provisions, see subsection E below.
- (9) Also no more than three stories. For height exceptions, see §175-30E.
- (10) Excluding agricultural structures and all structures legally completed or granted a building permit, Special Permit, Site Plan approval, or variance prior to the adoption of this Chapter. The purpose of this requirement is to maintain the historic scale and character of development in Philipstown. The intent of this provision shall not be evaded through the placement of multiple large buildings on the same site or otherwise in a pattern that is inconsistent with the scale and character of the Town.
- (11) May be 0 for party-wall or zero-lot-line buildings.
- (12) May be increased up to 60,000 square feet for a supermarket, movie theater, or other use deemed important to the economic viability of the hamlet and if all special permit impact criteria are satisfied.
- (13) For permitted encroachments into required setback areas for accessory structures. see Section 175-30C and 175-30F.



Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

OWNER CONSENT & AUTHORIZED AGENT FORM

Date: FEB 01 2012

I, DRINK PAPER COMPANY INC. AS SUCCESSOR THROUGH MERGER, residing at
Owner

WITH MID VALLEY OIL COMPANY INC.

221 QUINCY ROAD NORTH GRANVILLE CT 06033 do hereby authorize
Mailing Address, being the same as Putnam County Tax Records

NW Sign Industries, residing at
Authorized Agent

360 Crider Ave., Moorestown, NJ to act as my agent in
Authorized Agent Resident Mailing Address

securing permits in the Town of Philipstown at the following location;

1122 Route 9, Garrison, NY
Street Address and Tax Map Number

I, as owner of this property, understand that I am responsible for any information and work submitted and performed by my agent. I further understand that each time my agent applies for a permit, that he/she must submit a new authorization form to the Town of Philipstown.

Amanda Pappas
Authorized Agent's signature phone #

Paul A. Samar Exec. VP.
Property Owner or Corporate Officers signature phone #

State of Connecticut
County of Wardham

The foregoing instrument was acknowledged before me this 3rd day of Feb., 20 12
By (Owner's name) Paul A. Samar, who is personally known to me or as identification shown:

Type of Identification

Notary Public Signature: Nicole A. Caron
Printed Name of Notary: Nicole A. Caron
My commission expires: May 31, 2013 Commission # _____

010311



February 2, 2012

Town of Philipstown
Code Enforcement Office
238 Main St., PO Box 155
Cold Spring, NY 10156

Town of Philipstown;

Please accept this permit package to Re-image the current Getty Food and Gas Station located at 1122 Rt. 9 D Garrison, NY 10524 to a Gulf Branded Gas Station. We would like to install ACM on building, reface the sign (including an LED digital price sign), re-image the dispensers and paint this site.

Please find the re-image plans attached. Also we will be sending payment as soon as we know of the fees. We appreciate the opportunity to work with you.

Feel free to call me with any questions or if you need any other information. I can be reached at the number below. Thanks again and best wishes.

Sincerely;


Chanda Aycox

Jr. Project Manager

NW SIGN INDUSTRIES
BETTER FASTER SMARTER

1120 South 4th St
Chickasha, OK 73018
(405) 224-7788
(405) 224-7799

caycox@nwsignindustries.com
www.nwsignindustries.com

February 2, 2012

Warex Terminals
P.O. Box 488
1 S. Water Street
Newburg, NY 12551
845-561-4000

**RE: Getty/Gulf
1122 Rt. 9 D
Garrison, NY 10524**

To Whom It May Concern:

Please accept this as a Letter of Authorization providing NW Sign Industries and their contractors, the authority to act on behalf of the current Gas Station in pursuit of installing our old signage with new branded signage. This pertains to the following tasks in regard to signage for this station; Getty to Gulf 1122 Rt.9 D Garrison, NY 10524

- ✂ Obtain all necessary permits and variance approvals.*
- ✂ Engineering.*
- ✂ Removals, patching, and painting.*
- ✂ Installation.*
- ✂ Electrical work.*
- ✂ Any additional work as per the job specifications.*

*Per our lease, landlord approval **is not required** for signage alterations/upgrades.*

Sincerely,

Joe Guarino

*Mr. Joe Guarino
Warex Terminals
P.O. Box 488
1 S Water St.
Newburg, NY 12551
PH (845) 561-4000
FAX (562)562-4500*

Final hearing date _____ Zoning Board decision APPROVED / DENIED

Date application submitted 3/12/12

Application fee \$ 100 ^{ok 1847} Escrow \$ _____ Received by Mrs Landolf

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), Jerry Edelstein

residing at 14 Woodland Dr Garrison, NY 10524

Telephone: home _____ business _____

HEREBY appeal the decision of (name and title) _____

whereby he/she

GRANTED _____ DENIED _____ a BUILDING PERMIT _____ a CERTIFICATE OF OCCUPANCY _____

For _____

To _____

of _____

For property at tax map # 49-3-64 in zoning district R-80

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

Route 9 to Indian Brook Rd to Woodland Dr
First right at yellow house.

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

- Homola 24 woodland Drive, Garrison, NY
- Genth 4601 Henry Hudson Pkway, NY NY 10471
- Murphy Woodland Drive, Garrison, NY
- Osborn 54 Woodland Drive, Garrison, NY
- Carr Woodland Drive, Garrison NY
- Yetnikof 181 East 90th Apt 2B NY, NY 10128
- Roda 24 Woodland Dr, Garrison, NY

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code)

Zoning law 175-30H(i)
Art III Sec 11 Dim Table 2

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

N/A

TYPE OF APPEAL:

_____ an INTERPRETATION of the Zoning Code or Maps

a VARIANCE from the Zoning Code

_____ a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

N/A

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

Increase height of deer fence
from 6' to 8' w/out setback

(2) The grounds on which this variance should be granted are:

Deer fence must be minimum 8 feet to
keep deer out.

(c) a SPECIAL USE PERMIT is requested:

(1) The reason the permit is requested:

N/A

(2) An exact statement of use for which the permit is requested:

N/A

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

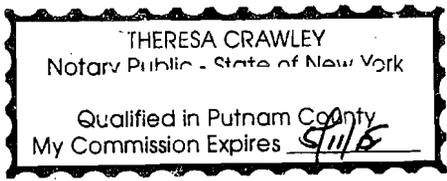
N/A

STATE OF NEW YORK, COUNTY OF PUTNAM Jerry Edelstein

being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief.

Jerry Edelstein
Signature of applicant or agent

Sworn before me this 12th day of MARCH 2012
~~2000~~
Notary, PUTNAM County, Theresa Crawley



SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions

5/95
PHILIPSTOWN ZONING BOARD OF APPEALS
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?

How close are nearby structures? - Will your structure be visible to others or will it block a view? - Do you propose exterior lights?

1a.) Our requested variance to increase the height of a fence from 6 feet to 8 feet would offer no detriment to nearby properties.

The nearest and only visible neighbor, THE HOMOLAS, agree with the location of the fence and this variance request. The closest structure is THE HOMOLAS house, which is approximately 300 feet from the proposed location of the fence. The fence will not block any views and is visible to only the HOMOLAS. We will not be using exterior lights.

1b. What impacts would the variance have on the character of the neighborhood?

Have others in the neighborhood received similar variances? - Does the Neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? - If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

1b. The variance would have no impact on the character of the neighborhood because the fence will blend into the woods and tree line. The fence will be see-through and will be made with "bark on cedar posts" with a 1 inch square wire. We are not aware of similar variances.

The neighborhood contains a similar structure on Avery Road. Our property is 5 acre zoning with only the HOMOLA house visible from our property. The other side of our property is surrounded by 70 acres of forest and steep slopes. The neighborhood would not be changed if neighbors were to receive similar variances, as the houses on our drive are not visible to each other due to the land and forest between them. Our property is on a private drive, not visible from the town road.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?

For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

2.) If we did not receive the variance we would not be able to build the shorter 6 foot fence because it would not serve the purpose of keeping deer out. There is significant research that has determined that deer fencing must be a minimum of 8 feet to be effective.

3. What is Code requirement you seek to vary?

How large of a variance do you seek?

3.) The code requirement we seek to vary is Philipstown Zoning law section 175-30H(1). This allows fences less than six feet high on any side or rear yard, except where corner clearance as required for traffic safety.

We request a variance from the six-foot requirement to allow us to increase to 8 foot without the required setback.

What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

4.) There is no impact or effect on the current physical or environmental conditions in the area. There is no grading, blasting, or paving proposed. There will be no removal of vegetation or impact on wetland. Normal drainage patterns will not be affected. The nearest well is approximately 300 feet from the fenced area. The nearest septic is approximately 250 feet from the proposed fenced area. The proposed fence will not produce emissions either odor or noise. There will be no increase in traffic.

5. Is the variance requested as a result of a "self-created hardship"?
Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit?
Is the need for a variance as a result of someone's mistake? Describe

5.) The variance request is not based on self created hardship. We did not build any structure without a permit. The need for the variance is not as a result of someone's mistake. We are installing this fence in conjunction with our neighbor THE HOMOLS who are also filing a similar request for variance.



Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

March 13, 2012

Jerry Edelstein
14 Woodland Drive
Garrison, NY 10524

Re: Installing an 8' high fence
Location: 14 Woodland Drive
Tax Map: #49.-3-64

I have received your letter dated March 6, 2012 seeking to install an 8 foot high 50" long deer fence along your rear property line.

Please be advised that the Town of Philipstown Zoning Law section 175-30 H (1). allows fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.

175-30 H. Fences and walls.

- (1) The setback requirements of this chapter shall not apply to retaining walls of any height or to fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.
- (2) The setback requirements of this chapter shall not apply to any front yard fences or walls less than four feet high, except that customary agricultural wire, board, or split-rail fencing which does not obstruct visibility may be higher.

175-74 DEFINITIONS

Fence, A structure or partition erected for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous properties.

Yard, Rear: An open space extending across the full width of the lot between the rear lot line and the wall of the principal building nearest the rear lot line.

The installation of an 8 foot high fence in the rear yard is hereby **DENIED** for nonconformance with section 175-30 H (1).

IF YOU ARE AGRIEVED THIS DECISION you may submit an application to the Zoning Board of Appeals, pursuant to the provisions of Article IV of the Code of the Town of Philipstown, to appeals from and review any order, requirement, decision or determination made by the CODE ENFORCEMNET OFFICER within sixty (60) days of the date on this letter. An application for the Zoning Board of Appeals is enclosed.

If you have any question you may contact may office at (845) 265-520.

A handwritten signature in black ink that reads "Kevin Donohue". The signature is written in a cursive, flowing style.

Kevin Donohue, CFM
Code Enforcement Officer

Request for Variance
Jerry Edelstein
14 Woodland Drive
Garrison, NY 10524

3/6/12

Request for variance: I would like a variance to increase the height of a deer fence around the back of my property from 6' to 8' with no setback. I am requesting this variance in conjunction with my neighbors, Andrew and Susan Homola who are requesting a similar variance.

The primary reason as to why I am seeking this variance is to ensure that deer do not jump over the fence. There is extensive research that indicates deer fencing should be a minimum of 8 feet tall. The fence would be installed along the north east side of my property as indicated on the attached survey and photos.

Sincerely,
Jerry Edelstein
14 Woodland Dr
Garrison, NY 10524

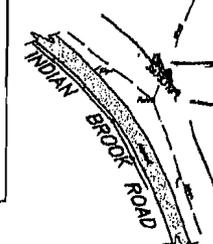
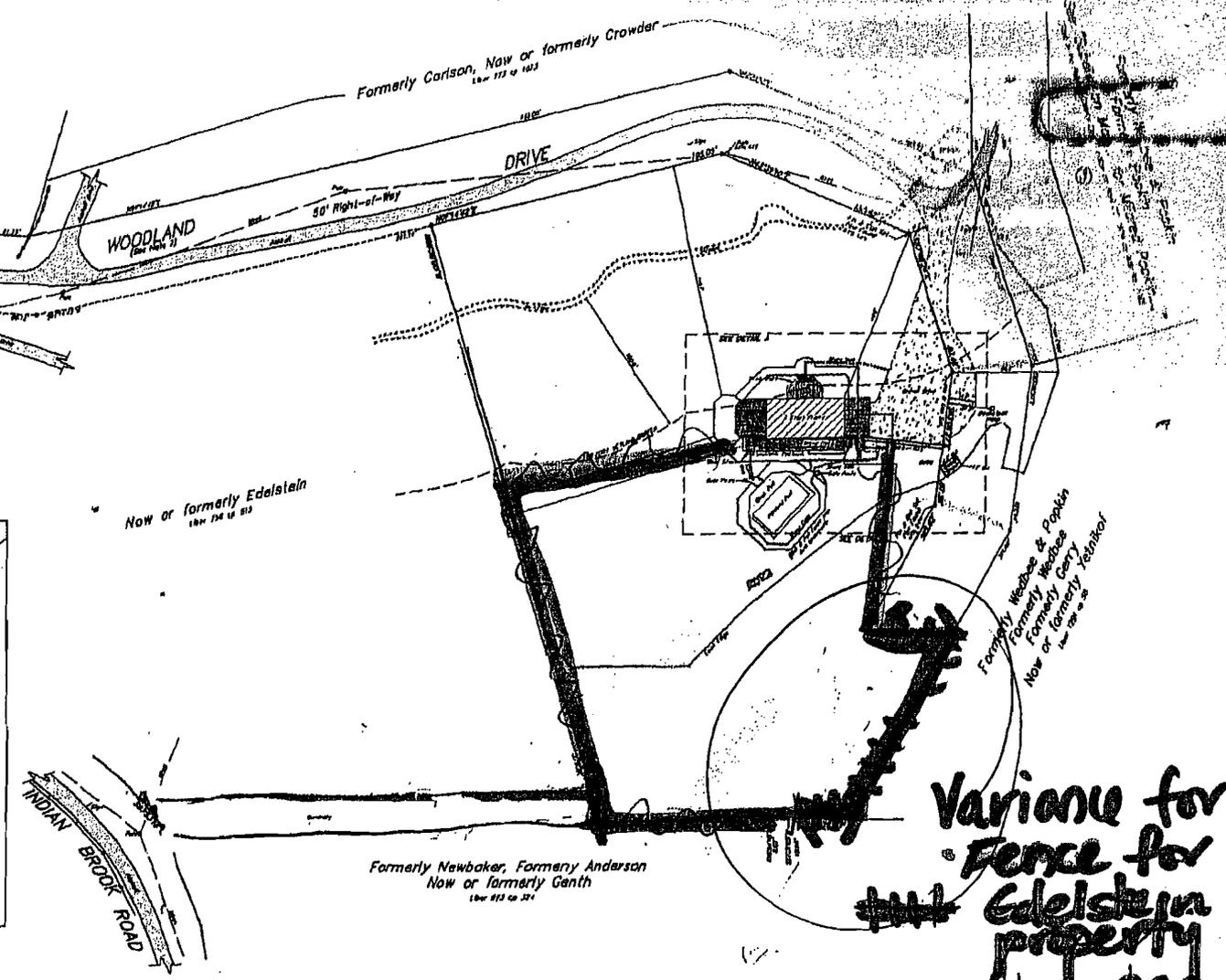
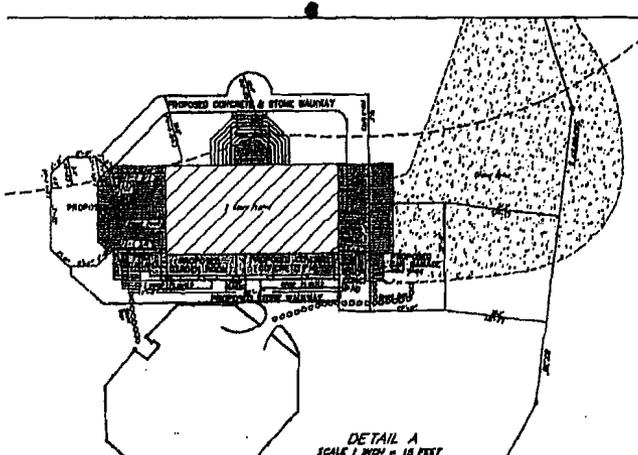
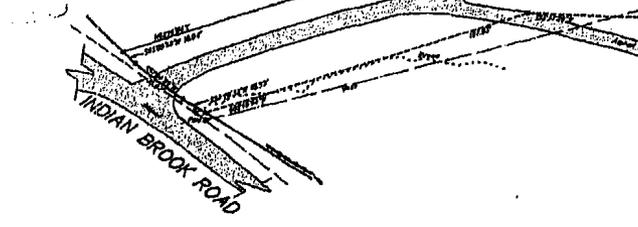


View North



Portion of **Map 1187 of 303**

Formerly McParlan, now or formerly Collins
See Subdivision Plat prepared for Roger Marr Associates, Inc.
Filed in the Putnam County Clerk's office on August 10, 1958 as Plat No. 2148



**Variance for
Fence for
Edelstein
property
Variance for
Horse
Fence**

Area = 2.429 Acres

- Notes**
1. COPYRIGHT "NONE" by BADEY & WATSON, Surveyors & Engineers, P.C. All rights reserved. Unauthorised duplication is a violation of applicable laws.
 2. Unauthorised alteration or addition to a document prepared by a licensed land surveyor is a violation of Section 2105, Subdivision 2 of the New York State Education Law.
 3. All certificates are valid for this map and copies thereof only if made true or copies from the original plat of the surveyor whose signature appears hereon.
 4. If underground improvements, easements, or encroachments exist and are neither visible during normal field survey operations nor disclosed in instruments provided to these surveyors, they may not be shown on this map.
 5. This property may be affected by instruments which have not been provided to these surveyors. Many of these maps should verify title with their attorney or a qualified title searcher.
 6. This survey is of property described in the Putnam County Clerk's Liber 1187 of deeds at page 303 (Plan & Part to Homola).
 7. The 50' Right-of-Way and easement by the Town of Philipstown as Woodland Drive along the road identification program necessary to the installation of Putnam County's 2011 emergency response system.
 8. Revised on January 18, 2003 to show proposed work, without barrier, and additional effects and dimensions. Survey was not brought to close.

SURVEY OF PROPERTY
PREPARED FOR
SUSAN MOSS HOMOLA
AND
ANDREW P. HOMOLA
SITING IN THE
TOWN OF PHILIPSTOWN
PUTNAM COUNTY
NEW YORK
SCALE 1 in. = 30 ft. JANUARY 10, 2003

We hereby certify that the survey shown hereon was completed by us on January 10, 2003 and that this map was completed on January 10, 2003 and that this survey has been prepared in accordance with the existing Code of Practice for Land Surveyors adopted by the New York State Association of Professional Land Surveyors, Inc. dated on January 18, 2003, New York.

BADEY & WATSON
SURVEYING & ENGINEERING, P.C.
NEW YORK STATE LICENSED LAND SURVEYOR
LICENSE No. 49187

Map was prepared for the architect
and is certified only for
SAN MOSS HOMOLA
ANDREW P. HOMOLA

BADEY & WATSON Surveyors & Engineers, P.C.
640 Route 9
1045 Spring Brook Road 10414
(770) 616-1800 Fax/Fac
(770) 616-1120 Urad
(848) 232-3071
(848) 232-3244
(848) 232-3063
(848) 232-3077