

ZONING BOARD OF APPEALS

238 Main Street, Cold Spring, New York 10516

May 14, 2012

7:30 p.m.

PUBLIC HEARING

- 1) **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 (to be heard with Edelstein Appeal)
- 2) **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 (to be heard with Homola Appeal)
- 3) **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
- 4) **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

REGULAR MEETING

- 5) **REVIEW OF MINUTES:** March 12, 2012
April 9, 2012
- 6) **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

April 9, 2012

MINUTES

DRAFT

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, April 9, 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: Kim Shewmaker - Secretary

Vincent Cestone – Please stand for the pledge of allegiance.

Vincent Cestone – Review of Minutes of March 12th.

Paula Clair – I have a correction I wanted to give her

Vincent Cestone – What I think we should do is post-pone this until the next meeting when she is here.

Paula Clair – I am going to give her my minutes with my corrections for myself

Vincent Cestone – Okay. We will do it at the next meeting. We have the Mordhorst resolution that we preliminarily approved last meeting and Amy, it fundamentally has not changed. And what I was thinking if it is okay with the board, not to read any of it into the record and just approve it as is.

Amy Zamenick -The beginning which I read into, which is fundamentally the same as what I read into the last meeting.

Paula Clair – I think that it is not functioning

Vincent Cestone – We have the video tape

Paula Clair – Okay

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Amy Zamenick -We don't have the microphone

Vincent Cestone – Basically it is exactly the same as last time with just spelling corrections and some minor grammar corrections

Amy Zamenick -I did break down the first interpretation into an “A” and a “B”, that is probably the only significant difference you would notice. Otherwise it is just language clean up and restructuring of some paragraphs.

Vincent Cestone – With that I will make a motion to accept the resolution as submitted, do I have a second?

Paula Clair – Second

Vincent Cestone – All those in favor?

All Board Members - Aye

Vincent Cestone – Opposed?

Vincent Cestone – Okay going on to Lyons Realty for placement on the agenda, I was just going to, since we have a very open agenda, I was just going to put him on for the next meeting which would be May 14th.

Amy Zamenick -I don't think that their representative is here today. I think there might still be a problem with the on-line he brought to my attention that says the meetings are at the end of the month rather than the beginning. So I don't know if he is still having some confusion with that. Also, I haven't received anything from Ron Gainer regarding the DEC documents but hopefully we will have them in by the next meeting

Vincent Cestone – Right and also with this the engineering firm that helps with the zoning code will be here. Make sure that it is clear.

Amy Zamenick -Okay great

Vincent Cestone – So Lyons Realty is on for May 14th

Amy Zamenick -Now is this an opening of a public hearing or a

Vincent Cestone – Continuation. They had to go out and do a whole bunch of stuff for the EPA and New York State. And this is going back all the way to guess September or October of last year.

Robert Dee - Most of the things are done for the State.

Paula Clair – Did we get anything from the EPA

Vincent Cestone – We haven't gotten it, but Amy are going to present it

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Paula Clair – Oh okay

Vincent Cestone – Next application is Andrew and Susan Homola. Come on up for a second. About your application. We were looking and it doesn't appear to be complete. Amy and I will tell you what is missing. There is sections of the code that are not filled in completely. And there is questions on the back of the application that are not answered. And the building department is supposed to help you fill that out. Did they sit with you?

Susan Homola - No.

Vincent Cestone – So the sections of the code that they wrote in there was written in by the Building Department?

Susan Homola - I worked with a fellow

Vincent Cestone – Kevin?

Susan Homola - Yes

Vincent Cestone – Kevin Donohue

Susan Homola - Yes. And I also met with Glenn Watson on a number of occasions and he made it more specific on the application. So he is the one that said also write the second piece of it, you will see it is elaborated

Amy Zamenick -The only thing that you are citing on the R-80 district, that's not your district anymore. They re-did the zoning last May. So we don't know where you fall into this because I personally don't know what zoning district you are now.

Vincent Cestone – Right. Kevin can tell you that. Did he write that in for you also?

Susan Homola - Well Glenn over-wrote it. So he was using the new manual. But I guess I will just go back to Kevin and ask him to fix it

Vincent Cestone – And there is a bunch of questions here that have to be answered. Factors to be considered by the board.

Susan Homola - And the answers are typed in

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Vincent Cestone – But they are not checked, which ones

Susan Homola - Oh, I see what you are saying

Vincent Cestone – So what I plan

Susan Homola - I'm sorry

Vincent Cestone – So what I plan on doing for you

Amy Zamenick -It is typed in. The answers. But we still need your proper zoning district and we need to know if you are within 500 feet of

Susan Homola - No. none of those. So it is just the zoning district that is in question.

Amy Zamenick -Maybe we can get that resolved before

Vincent Cestone – Well what we can do is put you on the agenda and before the next meeting you can supply that information to the zoning clerk and you won't be delayed.

Susan Homola - Okay

Amy Zamenick - Also your lot size. Just for the board's knowledge, the lot size for this application is 2.4 acres. That was also missing.

Lenny Lim - Okay. You seem to cite that there is some significant research that there has to be a certain height

Susan Homola - I'll bring it with us at the next meeting.

Lenny Lim - Bring your research, bring everything

Susan Homola - Wonderful

Vincent Cestone – Bring everything that will support your position because the zoning board's mandate is to give the minimum variance that we can under the law

Susan Homola - Okay

Vincent Cestone – So if you don't prove your case, the zoning board is obliged to deny

Susan Homola - Okay

Vincent Cestone – Under the

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Lenny Lim - Because you keep saying that the research, your co-applicant uses almost the same exact words

Susan Homola - Well we worked together and in fact he gave me a letter to represent him today because he was unable to come

Lenny Lim - Tell your neighbor to bring his research

Susan Homola - And I also have just a question, my sister was in charge _____ operation for many years, like 20 years. And that was all the land use, horticulture, everything and so even though she has related to me that there could be a conflict, I mean there is lots on the internet that I can pull up, but the fact that she, if I get a statement from her as well due to all of her experience, is that a conflict of interest

Vincent Cestone – Not in our eyes. If she has the credentials

Susan Homola - Oh she does. She definitely does.

Vincent Cestone – If she has the credentials, conflict of interest is you're my sister

Susan Homola - Okay so, the proper zoning and the documents on May 14th.

Amy Zamenick -We are handling the neighbor's as well.

Paula Clair – Amy, since they are representing Mr. Edelstein do they need a C of O in this package? Because I know they have the stuff from our files on proving they are owners of the land and he doesn't

Amy Zamenick -Well then he should definitely be proving us with that to prove that he is owner of the land. We don't necessarily need a C of O

Paula Clair – Since you are representing him, you can tell him

Amy Zamenick -A Deed is a requirement

Susan Homola - What does he need? A Deed?

Paula Clair – Well, you provided us with I think a page from our book showing that you owned the land

Susan Homola - Well his name is also on the recent survey that we did when we

did the renovation so he is

Paula Clair – Yeah, but you provided proof that you owned the land and he didn't

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Susan Homola - Okay, so I will ask Jerry to provide that.

Amy Zamenick -And he will be in attendance

Susan Homola - I am not sure. Basically, he would like to do this but we are paying for it and handling all the paperwork and all

Amy Zamenick -So this is only for tonight's meeting

Susan Homola - Okay. So you need to get another letter

Amy Zamenick -And you could have done it as a consolidated in one appeal.

Susan Homola - Okay, so I will get a copy of his Deed. And I will get documentation for zoning.

Amy Zamenick -You gave me this, there is no notary we are going to take it for tonight for it is the initial. But we really do need something a little more formal

Paula Clair – What is that

Amy Zamenick -It is a handwritten note just saying they are here because we are just doing an application for completeness. This is not going to do it for the rest

Vincent Cestone – So you are both on the agenda for May 14th for a public hearing.

Susan Homola - What day is that

Vincent Cestone – It's a Monday. It's always a Monday.

Susan Homola - So Monday, May 14th

Vincent Cestone – Same time

Andrew Homola - And we can consolidate

Vincent Cestone – We will do both at the same time

Amy Zamenick -We will keep them as two separate appeals and decisions, but

we will hear them at the same time.

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Vincent Cestone – And we will hear them before Lyons Realty because that will take the majority of the time so we will do you first

Amy Zamenick -And Kevin will have the proper Zoning district. It would be great if you could have Kevin confirm this for me, that you are not within 500 feet. He'll know, it is a 239m requirement. And if he has any questions, he can call me.

Vincent Cestone – And the Building Department is very agreeable. If you have any questions, they would be more than glad to sit with you. I find Kevin to be that kind of person. So you are all set.

Andrew Homola - Thank you for your time

Susan Homola - Thank you.

Vincent Cestone – The next item on the agenda is Drake Petroleum for review for completeness. Hi. How are you doing.

Tyler Bradford - Good. How are you all doing tonight?

Vincent Cestone – Your name please

Tyler Bradford - Tyler Bradford. I work with NW Sign Industries. We are the sign vendor.

Vincent Cestone – We are just reviewing for completeness at this time. Amy do you have anything

Amy Zamenick -This one is definitely right on a State or County Road and so we will need a 239 so we will need an EAF. It can be a short form.

Tyler Bradford - EAF?

Amy Zamenick -Yep. Are you familiar with those?

Tyler Bradford - No I am not

Amy Zamenick -It is an Environmental Assessment Form. And you can type in short form Environmental Assessment form New York State and it will come right up. It is only the first page you have to fill out. The second page we fill out

Tyler Bradford - Gotcha

Amy Zamenick -But we can't send it, even if we have the public hearing we can't