

**ZONING BOARD OF APPEALS  
Philipstown Recreation Department  
107 Glenclyffe Drive, Garrison, New York 10516**

**September 12, 2016  
7:30 P.M.**

**Regular Monthly Meeting**

**Pledge of Allegiance**

**1. Approval of Minutes:**

July 11, 2016  
July 25, 2016

**CONTINUED PUBLIC HEARING:**

**2. Stephen Flavin**

**51 Indian Brook Road, Garrison**

(Seeking a Special Use Permit for the construction of a conforming accessory structure with an accessory apartment on a legally non-conforming lot.)

**PUBLIC HEARING:**

**3. Christopher and Maria Marrison**

**TM# 82.-1-29**

**Appeal # 896**

**7 Old Manitou Road, Garrison**

(seeking a variance for a 21' front yard setback which requires 60' from section 175.11 B for an addition.)

**New Business:**

**4. Kristin E. Sorenson, TM#16.20-1-18 Appeal # 897**

**1000 Old Albany Post Road, Garrison**

- Front yard setback
- nonconforming lot coverage area

**5. Ezra and Carrie Firestone,**

**TM # 17.-2-85**

**Appeal # 898**

**537 East Mountain Road N**

(Seeking a 3 foot variance from section 175-11B of the Town Code to build a carport)

**\*\*\* NOTE: All items may not be called. Items may not always be called in order. \*\*\***

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Zoning Board of Appeals of the Town of Philipstown on Monday September 12, 2016 at 7:30 P. M. at the Philipstown Recreation Department, 107 Glencllyffe Drive, Garrison New York, to hear the following appeal:

Christopher and Maria Marrison, 7 Old Manitou Road, Garrison New York TM# 82.-1-29. The Applicant is seeking to construct a two story addition of about 1700 Square foot which would require a 21 foot setback from the required 60 feet from section 175-11 B of the Town Code.

Dated 8/18/16

Robert Dee, Chairman, Town of Philipstown Zoning Board of Appeals.

**ZONING BOARD OF APPEALS**

**July 11, 2016**

**MINUTES**

The Zoning Board of Appeals for the Town of Philipstown held their regular monthly meeting on Monday, July 11, 2016, at the Philipstown Recreation Department, 107 Glenclyffe Drive, Garrison

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

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

**Chairman Robert Dee** opened the meeting at 7:31 P. M. Alright we are going to start the meeting. Normal we stand up and salute the flag but we don't have a flag.

**Michael Cunningham** - It's right there.

**Robert Dee** – We Do?

**Paula Clair** – Yeah, We Do.

**Robert Dee** - Okay we'll stand up and salute the hidden flag.

(The Pledge of Allegiance was said).

**Minutes:**

**Robert Dee** – Alright. I'd like to... anybody have any changes on last months minutes? anybody have any changes? Well you weren't here so you wouldn't have any. So I make a motion that there are no changes that last month's minutes of June 13<sup>th</sup> be accepted.

**Lenny Lim** – Second.

**Robert Dee** – All in favor? Aye.

**Lenny Lim** – Aye.

**Vincent Cestone** – Aye.

## Public hearing for Robert Manzella

**Robert Dee** - The next one is going to be a public hearing. I'm going to go a little out of order because there are a couple of things I want to cover. The first one is going to be Mr. Manzella appeal number 893. The applicant is seeking a side line variance of 6 feet to construct a garage. Mr. Manzella you here?

**Robert Manzella** – Yes Sir.

**Robert Dee** - Okay what I want to do is, we accepted your application last month, so we are just going to have a public hearing tonight Okay?

**Robert Manzella** – Off course.

**Robert Dee** – We'll ask you a few questions and if anybody here wants to speak about that they can speak about that.

**Robert Manzella** – Very good.

**Robert Dee** – The first thing I want to do is, I want to go over the five factors. There are five factors that you filled out on the variance, okay, which we use to determine, to help determine our decision okay?

**Robert Manzella** – Okay.

**Robert Dee** – The first one is “What possible detriment would the variance have on nearby properties?” your answer was “As per attached exhibit no detriments will be caused. The structure will be visible but will not block any views. No exterior lighting is proposed.” Any board members have any questions on that one from Mr. Manzella?

**Vincent Cestone** – No.

**Robert Dee** – No?

**Vincent Cestone** – No.

**Robert Dee** – 1b is “What impacts would the variance have on the character of the neighborhood?” and your answer was “The detached garage will be only 14X22”, which is not small okay, “it will be attractive and shrubs will be placed near it.” I guess you mean the shrubs along the side line?

**Robert Manzella** – Correct.

**Robert Dee** – Okay.

**Robert Manzella** - And I just want to correct it, it is 14X24 you said 22.

**Robert Dee** – 14X24?

**Robert Manzella** – Correct.

**Robert Dee** – Okay.

**Lenny Lim** – We got 22 okay 24.

**Robert Dee** – Yeah, we got 22 on the thing okay 14X24 okay. Now the variance you're looking for is six foot am I correct? I mean you have 20 foot on the side line right?

**Robert Manzella** – Correct.

**Robert Dee** – And you're looking to go... Take six feet of that so that means you will still have 14 feet.

**Robert Manzella** – It should still be, yeah, about 14 feet from the side of the garage to the next door neighbor property.

**Robert Dee** – Well we can't do about, so make a decision now. If you want an extra foot, if that's what you know... right now, the reason I'm saying that is because if you put the garage in and the Building Inspector goes out there and finds out that your within... you're over what we gave you, you could have a problem.

**Robert Manzella** – Okay.

**Robert Dee** – Okay, so my question to you I guess at this point in time is, is the 14 feet, is the six foot good enough for you?

**Robert Manzella** – Six feet should be more than enough.

**Robert Dee** – Six foot enough okay, so it will be a six foot variance instead of 20 feet it will be 14 feet from the side line.

**Robert Manzella** – Correct.

**Robert Dee** – Okay. Number two "If you didn't get the variance, how else could you build what you want or accomplish your goal?" Yours is "without the variance we won't have a garage and would probably have to relocate in a few years. We like our house and are trying to improve it and encourage others around us to do the same. Currently there are two vacant houses for sale on our street. "Does anybody have any questions on that or anything? Okay Fine. Number 3 "What is code requirement you seek to vary? The building is too close to the property line." The property side line is the problem. "How large of a variance do you seek? You're seeking a 6 foot variance."

**Robert Manzella** – Correct.

**Robert Dee** – What impact or effect will the variance have on the current physical and environmental conditions in the area?

You said "I will install the necessary railroad ties or concrete flooring on our flat property. There should be no effect on the environment." Now what are you doing to that? Are you doing a concrete base or doing...

**Robert Manzella** – Correct it's going to be a concrete slab.

**Robert Dee** – So it's going to be a concrete slab.

**Lenny Lim** – It's a concrete slab.

**Robert Manzella** – Correct.

**Robert Dee** – Okay, and you've changed the diagram? I have the real diagram now of the building?

**Robert Manzella** – You do, yeah yeah, you should have all the correct stuff.

**Robert Dee** – All right. Okay.

**Robert Manzella** – Everything should be up to par.

**Robert Dee** – And number five, "is the variance requested as a result of a self-created hardship? I did not realize how much I needed a garage and since my son was born we need two cars and more space." Well I guess you can say it was self created because when you bought the house you knew it didn't have a garage.

**Robert Manzella** – Well yeah I know that and we really weren't planning on our son and everything so.

**Lenny Lim** – It's a self created hardship.

**Robert Dee** – Yeah, self created when you bought it you should have... But that's okay I'm just trying to figure it out. Okay does anybody have any questions? Mr. Manzella?

**Vincent Cestone** – Mr. Chairman, I need to recuse myself because I live within 500 feet of the applicant.

**Robert Dee** – You want to recuse yourself because you live within 500 feet?

**Vincent Cestone** – Yes.

**Robert Dee** – Okay.

**Lenny Lim** – I got one question, is there any chance you can maybe move it over just a little more and have less of a variance?

**Robert Manzella** – I'm just trying to keep a decent distance between so maybe I can also fit a car between where the garage is going to be and the house because part of it is going to be up onto the driveway so I was just trying to keep enough so if I need to put a car between, you know, where the garage is going to be and the house I will be able to put one there.

**Lenny Lim** – Yeah, because I saw from your diagram it is on a driveway.

**Robert Manzella** – Partial. Partially on the driveway.

**Lenny Lim** – Right.

**Robert Manzella** - I think it is about eight feet and the rest goes into the back yard so I was trying to leave a little room between the house and the ...

**Lenny Lim** – Get the mower to the backyard.

**Robert Manzella** – ...pretty much the mower, my sons toys, a little bit of everything.

**Lenny Lim** – Okay.

**Robert Dee** – Anybody else, any questions? Alright, thank you Mr. Manzella.

**Robert Manzella** – Thank you.

**Robert Dee** - Anybody else want to speak on this? You can sit down that's fine. Anybody else? Any... no one? Okay, at this point in time I make a motion that the public hearing be closed.

**Lenny Lim** – Second.

**Robert Dee** – All in favor.

**Lenny Lim** – Aye.

**Paula Clair** – Aye.

**(The public hearing closed at 7:38 P. M.)**

**Robert Dee** – Aye. Unanimous. At this point in time we will take a vote on the issuing of the variance which would be six foot. Instead of having the 20 foot he will have a 14 foot side line for construction of a garage. Mr. Lim.

**Lenny Lim** – What does your map say? Mine says eight feet. Where do you get...I'm trying to get to six foot. Mine keeps saying eight here.

**Robert Dee** – Where on the survey?

**Lenny Lim** - Yeah, you got a new survey?

**Robert Dee** – No, I got a new survey. Yeah.

**Lenny Lim** – That's what I mean I'm...

**Robert Dee** – Yeah, so what the survey says is the garage is going to be eight feet from the side line.

**Robert Manzella** – Is that how we drew it up?

**Robert Dee** - Yeah come up and take a look at it.

**Lenny Lim** – That's why I'm confused. You have eight foot on this.

**Robert Manzella** – Let me see, it might be correct it might be a misunderstanding with the six.

**Lenny Lim** – So he needs less of a variance.

**Robert Dee** – See, he's got eight foot here.

**Robert Manzella** – Okay, so for some reason I thought it was six.

**Robert Dee** - So instead of six it makes it a 12 feet side line. You see we have to know this because if we voted on six and you put it there...

**Lenny Lim** – So it's 12 feet.

**Robert Manzella** - I would be in some sort of trouble, right?

**Robert Dee** - You would have an issue.

**Robert Manzella** - Yeah, I got you for some reason I thought it was six but it is eight, that is correct. No, I thought it was six but that is correct eight foot.

**Robert Dee** – Okay. Eight foot.

**Robert Manzella** – Correct.

**Robert Dee** – So you're looking for basically a 12 foot variance.

**Robert Manzella** – Correct. I apologize for that.

**Lenny Lim** – Instead of a 14 foot.

**Paula Clair** – Yeah, right.

**Robert Dee** – Instead of six feet.

**Paula Clair** – Yeah.

**Lenny Lim** - I thought it was six.

**Robert Dee** – It was a 20 foot side line.

**Lenny Lim** – Okay.

**Robert Dee** – He was looking for only a six foot variance,

**Lenny Lim** – Now he's only got 14 left.

**Robert Dee** - Now he doubled that variance. Now he needs a 12 foot variance.

**Paula Clair** – Right.

**Robert Dee** – Right am I correct?

**Paula Clair** – Right.

**Lenny Lim** – No it's a 12 foot.. (not audible)

**Adam Rodd** – No the proposed garage is correct it will be 8 feet from the side yard lot line.

**Robert Manzella** – From the side yard, correct. That is correct.

**Adam Rodd** – Okay. So the requirement is 20 feet. So you're simply seeking a 12 foot variance.

**Robert Manzella** – 12 foot correct.

**Lenny Lim** - That's what I'm trying to get corrected.

**Robert Manzella** - Yes, sorry about the confusion.

**Robert Dee** - Alright we got everything straightened out now.

**Robert Manzella** - No, no I totally understand.

**Robert Dee** - So when the building inspector says you got to take it down you won't be too happy with that.

**Robert Manzella** – You're right I won't be too pleased with that. I apologize for that.

**Robert Dee** - Okay so it's going to be a 12 foot variance. It's going to be eight feet from the side line.

**Robert Dee** - Evidently there are no neighbors here...

**Paula Clair** – Yeah.

**Robert Dee** - ... Evidently, there are no neighbors here, at this point in time, to issue a question.

**Paula Clair** – I don't know if you can answer this but, how close is your closest neighbor to the property line?

**Robert Manzella** – I have nobody really on either side of me. One neighbor is actually a vacant house that's deep into the woods and then the one that's to the side where the driveway is being proposed on is another 100 yards back. So I have nobody really next door it's really pretty much their driveway.

**Paula Clair** – So no houses are close to the...?

**Robert Manzella** – No, no houses are even visible.

**Robert Dee** - Yeah now the property next to his house is way back. He's probable 150-200 feet from him.

**Robert manzella** – Yeah. (not audible)

**Robert Dee** - From the street.

**Robert Manzella** - Yeah, it's not even visible from my house.,

**Robert Dee** - I went, I looked and I saw that. I saw the same thing too. So there is really nobody by you is what I'm trying to say.

**Robert Manzella** – No not all.

**Robert Dee** – No Neighbor is going to be looking at your...

**Paula Clair** - Right.

**Robert Manzella** – Nobody at all, no.

**Paula Clair** – Yeah, because this is a significant variance but, I think it's mitigated by the fact that there is no structures near the property.

**Robert Manzella** – Yeah, I spoke to all the neighbors pretty much on the fourth of July and no one had any.

**Robert Dee** – Well I guess that is why there's no body here. Oh you have to step up I'm sorry.

**Robert Manzella** – Yeah, I spoke to all t he neighbors for the fourth of July everyone was having a little barbeque so I...

**Robert Dee** – Right.

**Robert Manzella** – ... spoke to everybody and no one had any issues at all.

**Robert Dee** - Well I can see that because your house is up pretty close to the street...

**Robert Manzella** – Yeah, I'm one of the only houses like that. Everybody else is pretty set back.

**Robert Dee** - ... and everybody else is really back there, so nobody is really going to, it's not going to interfere with anybody's...

**Robert Manzella** – So it shouldn't affect anybody at all.

**Robert Dee** - Okay, thank you.

**Robert Manzella** - You're welcome.

**Robert Dee** - Any questions, any more questions

**Paula Clair** – No.

**Robert Dee** - Okay, thank you Mr. Manzella.

**Robert Manzella** – Thank you.

**Robert Dee** – Okay we'll take a vote on it on issuing the variance. Ms. Clair.

**Paula Clair** – I vote yes.

**Robert Dee** – You vote in favor. Mr. Lim?

**Mr. Lim** – I vote in favor.

**Robert Dee** – You vote in favor and I vote in favor. So it's unanimous because Mr. Cestone recused himself so it's unanimous and you'll have the decision written up but now we don't meet next month. Next month is August and everybody takes a vacation in August so, what I could do if the Board allows, It's up to the Board when the Attorney writes up the resolution and he sends it to our Secretary, Linda, I can go in and sign it. This way he won't have to wait until September you know, it's up to the Board members. Otherwise we can meet in August.

**Adam Rodd** – Well I think once the minutes are prepared, when the minutes are filed with the Clerk that will be satisfactory.

**Robert Dee** – Well it's up to the Board members too I would think right? They would have to make that decision when the minutes are filed?

**Lenny Lim** – I have no problem with it.

**Robert Dee** – You have no problem.

**Paula Clair** – I have no problem either.

**Robert Dee** – Okay fine. When the minutes are filed and everything like that from the Secretary and when the Attorney, our Attorney does the resolution he'll send it to the town.

**Robert Manzella** – Okay.

**Robert Dee** - Our Secretary will call me at home and I'll go up and sign it and then she will go and notify you.

**Robert Manzella** - Very good thank you.

**Robert Dee** – Because if I do it, normally it's the next meeting If I do it that way you won't get it until September.

**Robert Manzella** - No I appreciate that Thank you.

**Robert Dee** – So I understand that you want to get started on that so what we'll do is, this way you will have it. I would say two weeks I would guess. I will guestimate. Okay so as soon as she gets it I will come in and sign it right away and Linda will call you. Okay, thank you very much.

**Robert Manzella** - Thank you very much.

**Robert Dee** - You're welcome. Okay, good night.

**Robert Manzella** - Thank you very much.

**Robert Dee** – Okay.

**Continued public hearing for Steven Flavin  
The continued public bearing opened at 7:45 P.M.**

**Robert Dee** – Okay put this away. The next thing on the agenda is a continuation of last months public hearing. This is Steven Flavin Appeal 894 applicant is seeking a Special Use Permit for an accessory apartment. Last month we had the public hearing and a number of neighbors spoke. Mr. Watson Mr. Flavin were able to answer your questions, there were a number of questions, about trees being cut and driveway and so forth. But the one issue that did come up was a possible wetland. So what the Board decided to do was to continue the public hearing until this month to have it checked out by the Wetlands Inspector to be sure that there was no wetlands on this property. So I have that letter from David Klotzle, K-L-O-T-Z-L-E, he's the Wetlands Inspector for Philipstown. It's dated 6/28.

**(Robert Dee read the following letter:)**

*"I have inspected your lot at the above address and Tax Map# so and so and date and find that no wetlands or water courses as defined by the Philipstown Code exist within 100 feet of the proposed new garage as shown on the site plan prepared by Badey and Watson and dated 7/22/15.*

*If I can be of any further assistance please feel free to contact me. "*

**Robert Dee** – So, we eliminated the wetlands issue on that. Now, I also received a letter dated June 21<sup>st</sup> from Don, Sandra, Brian and Leslie Nice. I'll read the letter for the record. It says...

**(Robert Dee read the following letter:)**

*“Dear Mr. Dee and Board members,*

The subject is Mr. Flavin's 9.2 acres in Garrison.

*“We would like to thank you for moving the public meeting regarding the above reference to accommodate wheelchair bound Brian Nice.*

*We, the Nice Family, neighbors of Stephen Flavin were at the Zoning Board meeting June 13, 2016.*

*Upon further exploring the law and our rights and meeting with the Building Inspector we determined we are NOT in favor of another structure being built on Stephen Flavin's property. We are extremely concerned about how you determine to give a variance on a second building on a property when the law was changed to ten acre zoning for a second structure in 2011.*

*Please tell us how you determine a variance.”*

**Robert Dee** – And it's signed Don, Sandra, Brian and Leslie Nice. Alright, so I guess maybe we will start with Mrs. Nice who wrote the letter, can you speak a little more to it? Would you like to speak to it?

**Sandra Nice** – I have an Attorney.

**Michael Cunningham** – I'm the Attorney by the way.

**Robert Dee** - Oh, I didn't know that.

**Michael Cunningham** - Sure, sure I'm the Attorney.

**Robert Dee** - Step right up here.

**Michael Cunningham** - Sure, I'll address it.

**Robert Dee** - I didn't know that I'm sorry. And you are, I'm sorry.

**Michael Cunningham** – My name is Michael Cunningham from the law firm Zarin & Steinmetz that's in White Plains.

**Robert Dee** – Okay. Do you have a card Mr. Cunningham?

**Michael Cunningham** – I do. Do you want me to ...?

**Robert Dee** – Okay, after you're finished you can get the card.

**Michael Cunningham** – After I'm finished. I have cards for everyone.

**Robert Dee** - Go ahead.

**Michael Cunningham** – So I'm from the law firm of Zarin and Steinmetz in White Plains and we were recently retained by the Nice Family, of 73 Indian Brook Road. They're long standing residents in the Town of Philipstown and the partner from my law firm who has been working closely with me, Dan Richmond, he unfortunately could not attend tonight, due to a prior commitment but he looks forward to hopefully working with you in the future on this. And we would also like to make a preliminary statement again. Thank you for moving the public hearing. We do appreciate the accommodations. And after Dan and my preliminary review of the proposed site plan we are asking that you keep the public hearing open because we believe the project does not meet the criteria for a Special Permit and we are asking that the Board conduct a site visit after the property is staked out. So we are basing this on the criteria in 175-63 of the Code...

**Robert Dee** – Okay.

**Michael J. Cunningham** - And so first, the first part of the code is B1 that we take issue with and we believe the project harms a neighboring property and historic character of the town. The Nice families property is on the National Historic Register is part of the Derham Farm.

**Robert Dee** - I'm sorry part of what?

**Michael Cunningham** – Derham D-E-R-H-A-M Farm.

**Robert Dee** – Okay.

**Michael Cunningham** - So a few properties in that area are on the National Register as part of the Derham Farm and their house is the main house.

**Robert Dee** – Is it... Is where this project is actually being done is, that on the National Registry?

**Michael Cunningham** – No.

**Robert Dee** – Okay.

**Michael Cunningham** - But it's adjacent to the property.

**Robert Dee** – Sure.

**Michael Cunningham** - And they've spent their money trying to keep the house in pristine condition. It takes time to stay on the National Register. They are very concerned about this and we also believe that also brings up the problem of B1 That this project may not meet that criteria. And what we are asking for also is property elevation drawings and cross section drawings. We've seen the site plan and we understand but we don't think it shows the visual impact especially because Mr. Flavin's property is on an elevation compared to my clients property. So they will be seeing it. There is also an issue with screening that I will get into further down the criteria. Even though we have read Mr. Klotzles letter and we read it, we do still think there is a wetland and watercourse issue.

**Robert Dee** – Well you have to understand the only thing we can go by is our Wetlands Inspector. He says it's not a wetlands that's what's in our minds that's what we have to determine, the only thing we have to go by.

**Michael Cunningham** – Is there anyway he can go back out?

**Robert Dee** – No. it's \$180.00 first of all to the applicant and it will be unfair at this point in time to have the applicant pay another \$180.00 for that.

**Michael Cunningham** - What if we had our own wetlands inspector come out there and we'll pay for it?

**Robert Dee** - You can do what ever you want if that's what you feel you want to do. Sure.

**Michael Cunningham** – That's something we would be... we thing it's within 100 feet of the driveway and the road.

**Robert Dee** - But you have to understand as a Board naturally our town, the person we employ, we hire, covers the...would carry more weight.

**Michael Cunningham** – And I do understand by he specifically mentioned the garage rather than the road and the driveway and construction of the road and driveway is also covered by the code. It's protected activity that may require a wetlands permit.

**Robert Dee** - The driveway?

**Michael Cunningham** - Driveway and road.

**Robert Dee** - But we had the wetlands inspector go out and inspect the whole piece of property.

**Vincent Cestone** - It's not a designated wetlands though is what he said.

**Robert Dee** – No. It may be wet but it's not a designated wetland.

**Michael Cunningham** – It's a watercourse too and watercourse is also protected.

**Robert Dee** – It's not a watercourse. I just read the letter I'll read it again maybe I made a mistake hold on. "I've inspected your lot at the above address and date and found no wetlands or watercourses as defined by the Philipstown Code exist within 100ft of the proposed new garage."

**Leslie Heanue** – It says new garage.

**Robert Dee** - Excuse me one second "as shown on the site plan prepared by Badey and Watson dated 7/22/15." Now this is the fella that we go by. Okay he says there is no wetlands there are no watercourses. Go ahead.

**Michael Cunningham** - So I know... What I'm also referring to is what I know that Sandra referred to as a spring during the last meeting.

**Robert Dee** - I'm sorry.

**Michael Cunningham** - Sandra Nice referred to that watercourse we are talking about as a spring at the last meeting.

**Robert Dee** - Okay.

**Michael Cunningham** - I know Mr. Flavin he also did not dispute that it is a wet area. And the definition of watercourse too is very broad.

**Robert Dee** - So your argument is with the Wetlands Inspector?

**Michael Cunningham** - Yes.

**Robert Dee** - Okay.

**Michael Cunningham** - Yes.

**Robert Dee** - Alright. Not with us, with the Wetlands Inspector?

**Michael Cunningham** - No. It's with the Wetland's Inspector correct?

**Robert Dee** - Sure.

**Vincent Cestone** - There is a whole registry in New York State of water wetlands and this is not on the list.

**Michael Cunningham** - Right and we're not disputing that it is not a registered wetland.

**Robert Dee** - Now what are you disputing, I'm lost?

**Michael Cunningham** - We're disputing that, we are saying that it's a watercourse and watercourse is not the same thing as a wetland.

**Robert Dee** - It's not a wetlands or a watercourse. That man's letter says it's no wetlands or watercourse.

**Michael Cunningham** - Within 100 feet of the garage.

**Robert Dee** - Correct.

**Michael Cunningham** - So there's also the road and the driveway which would also...

**Robert Dee** – But he... I know but he looked at the whole property and I told him, my instructions were that if there were any wetlands on the property period. So go ahead.

**Michael Cunningham** - Okay, so...

**Robert Dee** - I'm just telling you what we did. I didn't just...

**Michael Cunningham** - I know, I know

**Robert Dee** - I didn't just, you know...

**Michael Cunningham** - No I respect it.

**Robert Dee** – ...because the slightest wetlands is important to this Board so we had him check the whole thing out okay and like I say \$180.00 my understanding if I'm correct,. \$180.00 expense to the applicant. I'm not going to make the applicant do that again. It's not fair.

**Michael Cunningham** - We would be willing to have our own wetlands inspector come.

**Robert Dee** - You can do what you...

**Adam Rodd** – If I can just interject, if you're concerned about the wetlands, why didn't you retain a Wetlands Inspector during the... your own consultant during the first public hearing?

**Michael Cunningham** – Because we were just retained a week ago.

**Adam Rodd** – Okay.

**Michael Cunningham** – So we didn't have time to bring in the wetlands.

**Adam Rodd** - Well your firm but what about the applicant?

**Michael Cunningham** - I don't think that they knew to obtain a Wetlands Inspector.

**Adam Rodd** – Okay.

**Robert Dee** – I'm a little confused Mr. Cunningham and let me explain to you why. Last months meeting, I gave everybody a chance to come up here and Mr. Watson, Mr. Flavin and everybody spoke amongst themselves about trees and this and that and the driveway and where it was going to go and everything like that. Then the wetlands came up, okay, and so of course the Board decided to push it over okay. But I've asked questions, I asked like a Mr. Klein, He was a neighbor I guess. Is Mr. Klein here? No he was here that night, okay. He had some questions about trees being cut down. I said to him do you have any object to this if there is no wetlands? And he says no, okay. Then I asked, I'm pretty sure, Sandra Nice who now has, you know, I asked her if there was no wetlands and since we discussed the tree buffer, we are going to have it checked for the wetlands, If there is no wetlands and a tree buffer, do you have any objections to this being done? She stated no. Okay, so something has changed between last month and now. And I understand that okay. I just don't know why.

**Michael Cunningham** – I think...

**Robert Dee** - Can you explain to me why? Now you're saying wetlands. Now our inspector says there are no wetlands. So I'm not going to purposefully push these people over month from month from month okay?

**Michael Cunningham** – Right.

**Robert Dee** - You got to understand that.

**Michael Cunningham** – Oh I understand, I do understand that.

**Robert Dee** – Okay. Go ahead.

**Michael Cunningham** – Okay so I do think I have spoken about.

**Robert Dee** – I understand.

**Michael Cunningham** – So I'll just keep going with my point.

**Robert Dee** – Right go ahead.

**Michael Cunningham** – With watercourses they are also just with the spring, they are concerned about storm water runoff if there is any sort of construction in that area. They are concerned that disturbing that area can potentially flood there property. They have had some experience with flooding in the past. They have a swing set area that is located near the property line and that has had some flooding in the past.

**Robert Dee** – Okay.

**Michael Cunningham** – That is another one of their concerns. And...

**Robert Dee** – Wait a second. Hold on one second.

**Michael Cunningham** – Sure, sure.

**Robert Dee** – Mr. Watson,

**Glenn Watson** – Yes.

**Robert Dee** – Can I ask you a question? Storm water runoff, how would that be controlled? Just say, one of the issues Mr. Cunningham is concerned about is storm...

**Glenn Watson** – It can be directed to the north east or the north west rather than the south east.

**Robert Dee** – Okay so it will be directed away from...

**Glenn Watson** – It can be directed away.

**Robert Dee** – Away from Mrs. Nice's home.

**Glenn Watson** – It can be directed away (not audible).

**Robert Dee** – Okay, is that okay with you?

**Michael Cunningham** – I'm not...as long as it wouldn't go towards their property.

**Robert Dee** – Okay.

**Michael Cunningham** – That's our concern.

**Robert Dee** – No. I'm trying to settle whatever I can here tonight.

**Michael Cunningham** – Sure.

**Robert Dee** - That's what I'm trying to do, you know.

**Michael Cunningham** – Sure.

**Robert Dee** - He said he's going to direct it away from the home so that kind of answers that question. So go ahead.

**Lenny Lim** – (Not audible).

**Robert Dee** – Right.

**Michael Cunningham** – They are worried also about potential screening. A lot of the trees in that area that where you would plant a tree to screen the property.

**Robert Dee** – Right.

**Michael Cunningham** – There are a lot of dead trees in that area.

**Robert Dee** – Okay.

**Michael Cunningham** – So they're worried that if... that you won't be able to plant and it won't grow and you won't be able to screen anything that's built there.

**Robert Dee** – Run that by me once more, you said that...

**Michael Cunningham** – sure.

**Robert Dee** - ...because there are dead trees there that you can't plant new trees? Is that what you are saying?

**Michael Cunningham** – It means the waters wet from the watercourse area.

**Robert Dee** – We've already done that. You're not going to win with me with the watercourse or wetlands at this point in time okay, because our Wetlands Inspector says there is none. So let's put that out of the equation. You can do whatever you want legally. But I'm saying right now in my equation. So now we are talking about planting trees is that what you want? Would you like trees planted is that what you want?

**Michael Cunningham** – We would like so sort of visual screen.

**Robert Dee** – Okay.

**Michael Cunningham** – Between our property, between my clients property and the potential new structure.

**Robert Dee** – Okay, what would be sufficient for you? What do you want?

**Michael Cunningham** – I think trees, unless they have some other idea, I think trees are the only thing I'm thinking of off hand that would serve as some sort of natural protective screen.

**Robert Dee** – Trees. Full size trees you mean?

**Sandra Nice** – Yes.

**Robert Dee** - Full size trees.

**Vincent Cestone** – How many feet is your clients property from the structure.

**Michael Cunningham** – I think they said at the last meeting it's about I think a little over 200...

**Robert Dee** – More than that.

**Lenny Lim** – More than that.

**Leslie Heanue** – I'm sorry what was the question?

**Robert Dee** – Feet to feet from I guess your house, It is your house right?

**Leslie Heanue** – No, it's my parents house, they can't hear or anything so.

**Robert Dee** – Okay from your parents house which is Mrs. Nice.

**Leslie Heanue** - The garage where the garage is at my parents house to the property line.

**Robert Dee** – No not the property line to the other structure.

**Lenny Lim** – To the other structure.

**Leslie Heanue** - To where the road is or the actual structure?

**Robert Dee** – To where the structure... the actual structure.

**Leslie Heanue** – I'll have to do the math.

**Robert Dee** – Okay.

**Leslie Heanue** - It's a hundred and thirty feet from the garage to the property line so it would be another hundred and thirty one feet to the house so it would be...

**Robert Dee** - Two hundred and sixty feet.

**Leslie Heanue** – Two hundred and sixty feet, yeah.

**Robert Dee** – Okay.

**Leslie Heanue** – But the watercourse that he was talking about when I walked over there it is right here and I think what we were trying to communicate is that if you but a buffer there, the vegetation is going to be very hard to grow because it is an extremely wet area.

**Robert Dee** – Mrs. Nice.

**Leslie Heanue** - That's what we're saying.

**Robert Dee** - We already had the Wetlands Inspector there. He said there is no wetlands there. We have to go by that.

**Leslie Heanue** - Okay, I mean it's just hard for me to understand that when there's no flags there. There's no surveying sticks, no stakes. So I don't really seem to know how he would know if he was on my parents property or the Flavin's property. There are no markers to indicate where the property is.

**Robert Dee** – Well he had the survey. Okay, he was given everything we had. He had the survey, he had the distance so I'm sure he knows enough about the survey and distance and I'm sure he could figure that out where the property line was and I'm sure that's exactly what he did. He's a very competent person and I have no questions that's what he did.

**Leslie Heanue** – Aside from that again...

**Robert Dee** – Sure, sure.

**Leslie Heanue** - ...even though he's saying it's not a wetland area, my parents concern is the area is wet so if there was some sort of buffer zone or a way that they could be shielded from a house that that according to their elevation is going to be at least four stories high. it's going to be extremely...

**Robert Dee** - It can't be four stories high.

**Leslie Heanue** - Well my parents elevation is at 160. Stephen is going to start his property at 170 that's ten feet. The storage area...

**Robert Dee** - From higher than your elevation?

**Leslie Heanue** - Yup.

**Robert Dee** - Okay.

**Leslie Heanue** - The storage area that is actually really not a two car garage it's a storage area, you cannot park two cars there. It's a storage area. The lower storage area from this point at 160 goes up eight feet. So now you're at eighteen feet. It goes up another eight or ten feet for the first story of the apartment. And then the vaulted ceilings go up at least another six feet. So that's 30 something almost 40 feet.

**Robert Dee** - We got 40 feet is the height line for the (not audible).

**Leslie Heanue** - So that is very high.

**Robert Dee** - Right.

**Leslie Heanue** - My parents house is my dad's studio is four stories high. So in a sense when he's working in his studio he will look right at that house so the concern is to have all these trees there in an area that I understand is technically not wet and I respect that, but it is very moist there is skunk cabbage there, there's trees that have died because of you know of the wetness.

**Robert Dee** - Right. Are there any...

**Leslie Heanue** - And I indicated a picture of that stream that shows that that's where you know...

**Robert Dee** - Right. Are there any trees there now? Is it a wooded area?

**Stephen Flavin** - Yes.

**Leslie Heanue** - Apparently.

**Stephen Flavin** - There's full size trees there.

**Robert Dee** - Mr. Flavin, there's full size trees there?

**Stephen Flavin** - yes.

**Robert Dee** – Okay.

**Sandra Nice** – Dead ones.

**Stephen Flavin** – Correct.

**Robert Dee** – Let me put it this way. Are there full size trees on your mother property?

**Stephen Flavin** – Yes.

**Leslie Heanue** – Are there full size trees on my parents property?

**Robert Dee** – Yes.

**Leslie Heanue** – Well this is the old service road, It's not Beverly Warren Road, the old Beverly Warren Road that Glenn had indicated, It's the old service road. So there really aren't any trees on that service road.

**Robert Dee** – No, I don't mean the service road, that is not my question. My question is that you're concerned that your father is going to be in his studio and look out and see the other structure?

**Leslie Heanue** – Right.

**Robert Dee** – Okay. So for the 160 feet that's from your house to the end of your property line, are there any trees there?

**Leslie Heanue** – No, no and I gave you a picture of that at the last meeting.

(not audible)

**Robert Dee** – I'm sorry I didn't see it.

**Leslie Heanue** - From the 130 feet from their garage to the property line, no there are no trees. There's a couple of Hemlock trees that are right here but from the corner of their property to the garage is where they park their car. There is a circle turn around, my brothers handicap van is there. So that's their service area that's where they park their cars.

**Adam Rodd** – Just to clarify, is it your position that the mere fact that you would be able to see the structure on their property is a basis to deny the request to construct a structure for the mere fact that you can see it?

**Leslie Heanue** – Well I think it would devalue, It would definitely devalue a historic landmark. It's a very high big house. Our proposal is that the structure actually be built up on top here, where it's right close to the road, it's a very flat area.

**Robert Dee** – It can't be close to the road, that's first.

**Leslie Heanue** - Well I know in other words.

**Robert Dee** – Okay there are variances, it could be 60 feet from the road, I'm not sure.

**Leslie Heanue** - Oh it totally could.

**Robert Dee** - I don't know what the distance is, is what I'm trying to say. But, we're not going to go through all that.

**Leslie Heanue** – Okay.

**Robert Dee** - What our thing to do is...

**Leslie Heanue** - Well your question to me was...

**Robert Dee** – Right.

**Leslie Heanue** - Your question to me was do I feel that the mere site of it? Well I think there is more than just the site. I think it is the necessity of the variance of an acre verses the site of the devaluation of my parents property and the quality of their life, of these cars coming in, the lights, the inability to buffer it because it is a densely moist area, the size of the structure I mean for... I mean I understand for an Aunt but then it was quoted it would be a rental property maybe you know.

**Robert Dee** – I understand this is a one bedroom? One bedroom accessory apartment?

**Stephen Flavin** – Yes.

**Robert Dee** – Okay.

**Leslie Heanue** – It's a one bedroom apartment but the underneath is a storage area. It's not a garage. If you look at the way it's laid out you can't pull a garage in this area. It's a 1000 foot storage area. My concern after that is can I get a building permit later on to add on another 1000 feet, another 800 feet I feel.

**Robert Dee** – Well that we'll have to deal when it came to us. We can only deal with what is actually in front of us. Mr. Cestone you have a question?

**Vincent Cestone** – Yes, I want to ask the applicant a question. How tall is the structure going to be?

**Jeff Wilkinson** - The structure...

**Vincent Cestone** - At its maximum height, how tall?

**Jeff Wilkinson** - I believe it's approximately 26 feet from which this is, this is basically the garage doors is in the 20's.

**Vincent Cestone** - So it's a maximum of 26 feet high?

**Jeff Wilkinson** - I believe so, it's well under..., I believe it's under 30 feet.

**Robert Dee** - Yeah.

**Vincent Cestone** - Okay. Well correct me if I'm wrong. I'm looking at this topographical map, you're proposing building it at 160 feet above sea level and then the land climbs to 190 feet doesn't that mean that we wouldn't see the structure?

**Jeff Wilkinson** - Well the structure is built into the hill.

**Vincent Cestone** - You know, you wouldn't be able to see it because the ridge is in the way.

**Leslie Heanue** - Well I'm sorry he...

**Robert Dee** - Wait, wait wait one second.

**Jeff Wilkinson** - I'm the Architect on the project and these are, these give us a rendering of the building which is without... is built into the hillside. So the garage level which is nine feet.

**Vincent Cestone** - Right.

**Jeff Wilkinson** - This level which is eight feet and then you got 10 or 12 feet for the...

**Lenny Lim** - Do you have the topography map behind there?

**Vincent Cestone** - But the point I'm trying to make is...

**Jeff Wilkinson** - Yes.

**Vincent Cestone** - But the point I'm trying to make is the ridge is shielding a lot of the structure.

**Jeff Wilkinson** - Yes and the reason we picked this site is that it's built into the hill to mitigate the mere presence of it. That's a big part of it. Also the house is very similar to Mr. Flavin's house where the styling of the Board and Batten and the Cedar siding is very much sympathetic to many structures in Garrison with a 10 over 12 pitch it's a traditional... I'm sorry so the roof line is a traditional 10 over 12 pitch. The structure is built into the hill. It is designed as a garage to be entered from the side.

**Robert Dee** - Let me ask you a question, Do you know where Mrs. Nice's house is?

**Jeff Wilkinson** - I do

**Robert Dee** - Okay.

**Jeff Wilkinson** - Which I can barely see from this...

**Robert Dee** – Alright. Which side of that structure would they see the most?

**Jeff Wilkinson** - They will see this side of the structure which I will turn to.

**Robert Dee** – Here.

**Jeff Wilkinson** - To the (not audible).

**Leslie Heanue** – It's actually the lower right.

**Jeff Wilkinson** - This is the south elevation which is what the Nice's will see.

**Robert Dee** – Show us on the map.

**Vincent Cestone** – Show us on the map where it will be.

**Robert Dee** - So they will be looking at the south elevation.

**Leslie Heanue** - Yes, yes.

**Jeff Wilkinson** - Okay the south elevation so here is the grade of the hill.

**Robert Dee** – Okay.

**Jeff Wilkinson** – This is the garage.

**Robert Dee** – Correct.

**Jeff Wilkinson** – Whatever that elevation that appears to be (not audible).

**Robert Dee** – Are they going to be able to put a car in that garage?

**Jeff wilkinson** – Yes. Nine foot ceilings with a double door, garage door.

**Robert Dee** – Right.

**Leslie Heanue** – But only one car.

**Robert Dee** – Okay.

**Jeff Wilkinson** – And then less then 800 Square foot of apartment above.

**Robert Dee** – okay.

**Jeff Wilkinson** – And on the elevation which this structure is pretty close to being... the reason it's picked here is that there's trees here. There's an existing crop of Locust trees here that we want to build

into, into this. I mean it would be easy to put this out here but we're putting it here so that if I put it out here it will be much more present.

**Vincent Cestone** – And where is her house?

**Jeff Wilkinson** – There house, Stephen might be the best person or it's in this area.

**Robert Dee** – I think Mr. Watson will be able to tell us better.

**Jeff Wilkinson** – Okay Glenn will be able to tell us better.

**Robert Dee** – Okay, so it's actually slightly behind it.

**Jeff Wilkinson** – Closer to the river.

**Robert Dee** – Okay.

**Jeff Wilkinson** - So I believe there house is closer to the river.

**Robert Dee** – So the Nice's house is...

**Leslie Heanue** – It can't be too far away because that road serviced it. That was a driveway. It can't be that far away just follow your finger.

**Jeff Wilkinson** – So it's approximately here.

**Robert Dee** – Okay. What I'm trying to say it's not... it's slightly behind it right?

**Glenn Watson** – Yeah.

**Robert Dee** - It's not directly along side it?

**Jeff Wilkinson** – That's correct.

**Robert Dee** – That was my question. Am I correct Mr. Watson? Tell me if I'm wrong here?

**Glenn Watson** - That is correct.

**Jeff Wilkinson** – So the intention was is to create a beautiful structure that is using Field Stone Veneered walls, it's a native stone, Field Stone. Cedar siding, metal roofing that will be all high end materials. The cost of this will be well over \$300,000. Probably more.

**Robert Dee** – Right.

**Jeff Wilkinson** – This is not a cheap structure, it's not going to degrade property values.

**Robert Dee** – Okay.

**Jeff Wilkinson** – I feel it's in character with many structures in Garrison in materials and it's being, tempted to be mitigated so that it's built into the hill. We thought about putting it into the field. But to us it made more sense and we thought it would be appealing.

**Robert Dee** – Okay, thank you. I guess Mrs. Nice.

**Leslie Heanue** – I just have a couple more points.

**Robert Dee** – You're Mrs. Nice right, I'm sorry.

**Leslie Heanue** – I'm Mrs. Heanue. It's Nice-Heanue.

**Sandra Nice** – I'm Mrs. Nice.

**Robert Dee** – Heanue, okay my mistake.

**Leslie Heanue** – I think in all due respect I understand and appreciate the idea of putting it into the hillside. Unfortunately the brunt of... Do you have that other diagram where the house is (not audible) the south elevation can you show where the south elevation is please?

**Jeff Wilkinson** – Well that is the south elevation.

**Leslie Heanue** – The other one. That compares to the (not audible).

**Jeff Wilkinson** – Theses are the... These are the...

**Leslie Heanue** – Thank you these are the one's I'm talking about.

**Jeff Wilkinson** – These are sketch views.

**Leslie Heanue** – Thank you. So this area here is this area the one that is covered is the one that my parents are going to see so while I understand and appreciate when Stephen looks down on it, it's going to be this very small cottage. When my parents experience the outdoor light for the garage, the outdoor light for the entrance way, the cars coming around that's all going to be visible to them literally when they are sitting in their kitchen.

**Robert Dee** – Well it's a one bedroom apartment so there is not going to be a lot of cars you know what I am trying to say? So you're talking about the most would be two people. At this point in time we know it's just the Aunt who lives by herself so it's not going to be like having a constant highway coming through here.

**Leslie Heanue** – Well we don't know because the applicant said that he would probable be renting it later.

**Robert Dee** – But still what I'm saying is it's still only one bedroom. there's only, you know there is only so many people you can put into one bedroom right. Now as far as the outdoor lighting about being on at night. My question would be any...

**Jeff Wilkinson** – (not audible) all the lighting is specified shielded exterior lighting.

**Robert Dee** - put lighting on that comes on and off with motion. It's shielded exterior.

**Jeff Wilkinson** – Shield exterior lighting.

**Leslie Heanue** – The other thing I propose, if actually there could be no storage underneath if the purpose of this structure was to house his aging Aunt, which I can appreciate, if there could be no storage structure underneath and or if the driveway can come down as I asked at the other meeting.

**Robert Dee** – Right.

**Leslie Heanue** - If the driveway can come down here so that the lights and everything is going behind their house. That it's only one story. That there isn't this storage unit underneath.

**Robert Dee** – Right.

**Leslie Heanue** - You know I think that there can be some compromise on how it can be maybe structured, you said maybe not talk about a different location, but structured in a way that it isn't an invasion of their lifestyle and that you know as I said with this buffering this large structure, I mean it's going to be very challenging and I just feel like if he's asking for a variance because it's non-conforming.

**Robert Dee** – It's not a variance. It's not a variance. It's a Special Use Permit.

**Leslie Heanue** – Well he's supposed to have ten acres.

**Robert Dee** – This is a Special Use Permit.

**Leslie Heanue** – And he's supposed to have ten acres.

**Vincent Cestone** – He can build by right anyway.

**Robert Dee** – Okay, we are trying to...

**Adam Rodd** – Just to clarify, this is not a request for a variance. Under the code because it's non-conforming and it's apparently 9.2 acres doesn't meet a ten acre requirement. He can build this structure as long as he, the applicant, meets the criteria for a Special Use Permit. This is not an application for a variance.

**Leslie Heanue** – and I think some of those, at least two or three of those boxes were ticked in terms of it being on the Historic Register.

**Robert Dee** – It's not on the Historical Register. His property is not.

**Leslie Heanue** – Well their house is.

**Robert Dee** - Alright but we're not talking about their house. We're talking about what our job here tonight is. Is to determine if whether to grant or not grant a Special Use Permit for this structure. Now as far as roads being changed we did that last meeting you know that can't be done.

**Leslie Heanue** – I think the answer was no, it can't be done.

**Robert Dee** – Right.

**Leslie Heanue** – I just kind of felt like...

**Robert Dee** – Well I understand.

**Leslie Heanue** – You know what I mean? Like if he wants this of course he's going to say it can't be done.

**Robert Dee** – Well he says it can't be done you have to understand that we can't force anybody to do anything. Okay. We Can't

**Leslie Heanue** – Well you cannot grant the variance.

**Robert Dee** – It's not a variance, that's the first thing.

**Leslie Heanue** – Special Use Permit.

**Robert Dee** – Well sure we can do that. We can always do that bnt...

**Leslie Heanue** – Or at least come up with a reasonable solution that isn't so you know...

**Robert Dee** – We don't have to come up with a solution. We try to come up with a solution. Okay, I can see at this point in time there is no solution.

**Adam Rodd** – Well.

**Robert Dee** - Well unless you have a solution.

**Adam Rodd** – Well, I'm just coming up with a suggestion I mean if there was a condition to the grant of planting some additional landscaping in the area of the boundary line would that be.. would you be amenable to that would that be satisfactory to you?

**Leslie Heanue** – I mean you are going to have to get some really really big trees in there. I am just concerned about... I mean as Stephen had said when we walked the property, you know, his suggestion was to plant Weeping Willows there and knowing that its a wet...it's very dense there. So something else really couldn't have grown there. He expressed the fact that when he came around this

corner his tractor used get stuck all the time when he was mowing down there so you know, if the reason for building that buffer is to hide the building that is 28 feet. You know let's bring the building down smaller and then a reasonable buffer maybe could be done based on, you know, lowering the building and yes making a buffer. I just I mean twenty eight, thirty feet that's that's a lot. Twenty eight.

**Robert Dee** – Well 40 feet. He can do 40 feet you know. So twenty eight feet... Legally he can do 40 feet so that's well within the height limit okay.

**Leslie Heanue** – Okay.

**Robert Dee** - I understand what you're saying, I understand your concerns and we are trying to do the best we can to (not audible).

**Leslie Heanue** - As we are.

**Robert Dee** – I understand. With the buffer and all like that. As far as changing the road we have been through that there not going to do that. As far as the structure, this is the structure they want okay. So we have to determine if it's acceptable okay.

**Brian Nice** – I have one question.

**Robert Dee** – Sure.

**Brian Nice** – How far away does a huge structure have to be away from a historical house? My parents house is a historical house.

**Robert Dee** – How far away does another structure have to be away from a historical house?

**Adam Rodd** - Setback?

**Brian Nice** – Yeah like theirs is on the National Historical Landmark Society. How far away would the house have to be from that?

**Robert Dee** – Well first of all I don't have any paperwork here that shows Mrs. Nice's house is a historical house, that is the first thing.

**Brian Nice** – Yeah it is.

**Robert Dee** – I don't have that.

**Brian Nice** – (not audible).

**Robert Dee** – The Attorney may have it in his duffel bag, but I don't have it. Okay. That's the first thing.

**Brian Nice** – (not audible).

**Robert Dee** – The second thing is this property is not on a Historical Landmark so it really doesn't come under Historical Landmark codes unless I'm wrong.

**Brian Nice** – My parents house is, my parents...

**Robert Dee** - I'll ask the Attorney that one.

**Adam Rodd** – I'll let the applicant speak to it.

**Robert Dee** – Okay.

**Glenn Watson** – I would rather do my comments when they're finished.

**Adam Rodd** – Sure.

**Robert Dee** – Okay sure. Mr. Cunningham do you have more comments.

**Michael Cunningham** – Just a few concluding comments then...

**Robert Dee** – Okay sure.

**Michael Cunningham** – Okay so Mr. Rodd we do like your suggestion and like I said to see if the actual landscaping will actually hold up. That's a big concern of ours. I don't know if there is something that the Board does if they require like a Hydrogeologist or landscape specialist. This kind of vegetation, this kind of planting will be able to survive here. I don't know if there is anything you do but we would like to put something like that out there and so. And then again just another point that we are bringing up. We are concerned in the historical character and that's coming from 175-63B(8) because this affects my clients historical character of their property. And so I will just conclude that you know as we requested we would like to keep the public hearing open and we would like a site visit. But, you know, there are some issues that we are concerned about. If you do a Special Use Permit that you consider a conservation easement or deed restriction against any further development beyond the structure.

**Robert Dee** – Okay. Is that it? Any further development on the property you mean?

**Michael Cunningham** – Right.

**Leslie Heanue** – Yes.

**Michael Cunningham** – Yes.

**Lenny Lim** – A deed restriction.

**Robert Dee** - You want us to put a restriction so he can't do anything else on the property is that what you're asking?

**Michael Cunningham** - Not necessarily anything else but in this area too near our clients property adjacent to it.

**Robert Dee** – Oh, I don't know if legal we even do that you know. I have to ask the attorney, but I don't think that's legal. I know I wouldn't accept it. Okay, but...Okay thank you. Mr. Watson, I have a couple of questions before you finish up. I understand this is a Special Use Permit and it's under section 175-63A of the Philipstown Zoning Law provides that none of the criteria for major project as set forth in section 175-63(B) be violated. Applying the standard the Board finds that the applicants proposal will apply with the requirements of the RC Zoning District 175-63B(1). First of all the questions will not result in an excessive off premiss noise, dust, odors, solid waste or glare. Can you speak to that? I'm saying basically there will not be any excessive off premise noise, dust, odor, solid waste or glare.

**Glenn Watson** – Well this is a... Well I may ask Jeff to speak to the glass on the building. But, this is an 800 square foot building it is not a large building, it is a residential structure. Its got natural materials that are being offered so the only possible glare would be if there was a sun reflection off the windows. that's why I said if there's, I don't is there a fireplace in this?

**Jeff Wilkinson** – There is no fireplace.

**Glenn Watson** – There is no fireplace so we are not having any sort of industrial activity in there that would typically produce that kind of smoke or that sort of stuff. Its population by its mere size is going to be limited. It's certainly reasonable to expect that there may come a day when this becomes a rental unit and couple lives in there, a couple with a small child may live in there. But if you look at any of the statistics regarding a condominiums that are one or two bedroom condominiums people have families and they go. That's when they go. The condominiums don't produce school children. I think there is not a big leap to go from a condominium with a two bedroom to this one bedroom structure and expect that any family that might live there would live there only during the time when they had maybe perhaps only one child or perhaps what my family would call Irish twins.

**Paula Clair** – Can I, I just want to ask in terms of the glare, I think that the Nice family is concerned about the lights outside the... and I just wanted to ask how...

**Glenn Watson** – They did say that and Mr. Wilkinson, who is the architect, if you don't remember.

**Paula Clair** - Well I heard him say they are shielded.

**Glenn Watson** – They are shielded. They are residential type lights and we would certainly take a condition that the lights be designed in such a way that there will be no... that there will be no outward glare or no spots directed that way.

**Jeff Wilkinson** - There is no plan for flood lights or exterior lighting to produce glair.

**Robert Dee** – Alright could be by flood lights they would be motion detectors you wouldn't have them on all the time right.

**Jeff Wilkinson** - Right.

**Robert Dee** – So what condition would you take I'm sorry?

**Glenn Watson** – We would take a condition that there would be no light directed toward the southern boundary line which is where the Nice's house are and that the lighting fixtures would be low level residential lighting fixtures and then it would be downward directed which is kind of the term of our (not audible.) We have no problem complying with that we would most certainly do it.

**Robert Dee** – Okay I'm sure our Attorney can get that (not audible) that down. Now let me ask you this question will this cause traffic congestion or impair pedestrian safety? No.

**Glenn Watson** – I can't see how it would, I mean it's a one, it's less than a one family house.

**Robert Dee** – Okay under 175-63B(4) will be accessible to fire, police, and emergency vehicles?

**Glenn Watson** – There is a driveway down there that will be accessible.

**Robert Dee** – Okay under 175-63B(5) Will not overload public water, drainage, sewer systems It's going to be a septic tank?

**Glenn Watson** – We are not going to be using any public water or sewer system. We are going to be installing a septic system and a well.

**Robert Dee** – Septic system and a well Okay. Under 175-63b(6) Will not degrade watercourses, natural resources or ecosystems? No I got to ask you these questions because...

**Glenn Watson** – I don't see that either. I mean the septic system which has that potential if it is not designed and constructed correctly it does have that potential but, there are safeguards in place with the Putnam County Health Department first of all it is designed properly second of all it is inspected during construction third and it's inspected again by the health department so there is every expectation that...

**Robert Dee** – Right.

**Glenn Watson** - ...one source is real pollution will be fine.

**Robert Dee** – Well you couldn't complete this, you couldn't go ahead with it if you didn't get approval from the Board of Health. You have to get approval from them first but as far as your design for your septic fields are concerned right?

**Glenn Watson** – Correct.

**Robert Dee** – Okay under 175-63B(7) Will be suitable for the property on which it is proposed? Will it be suitable for the property on which it is proposed?

**Glenn Watson** – Well 2011 Zoning made a particular point to allow accessory apartments under certain circumstances because it was a defacto condition in this town. People would have their servants over their garage which was allowable because it used to be all of the buildings together was a dwelling unit.

When in fact that servant got a break in his rent for mowing the lawn once a week and like it or not they are rental units. The town saw that the town said this is what the people want they want accessory apartments in the house they built it into the law. So I'm tempted to say it is part of the master plan but I did not have time to look that up today. But it was clearly addressing a condition that is prevalent in the town that the town wanted and it's done a pretty good job of it.

**Robert Dee** – They just put in new Zoning Codes. I think it came in 2011.

**Glenn Watson** – That is correct 2011.

**Robert Dee** – Okay. Will it be compatible with surrounding uses?

**Glenn Watson** – It's a residential use and that's all we have until you get to Boscabel where you have an institutional use.

**Robert Dee** – Okay.

**Glenn Watson** – And the other way the Audubon Society they're both several 100 if not a thousand feet away.

**Robert Dee** – Okay, 175-63b(9) says will have no impact on the preferred location for surrounding uses?

**Glenn Watson** – I don't, I guess I don't quite understand what that means.

**Robert Dee** – Will be compatible, I'm sorry, will be compatible with surrounding uses? We already gone through that.

**Glenn Watson** – We already did that one.

**Robert Dee** – Right. Will have no impact on the preferred location for retail use?

**Glenn Watson** – There is no retail use.

**Robert Dee** – Well that has nothing to do with it. Will not adversely affect the availability of affordable housing? No. That's in there That's 175-63B.

**Glenn Watson** – I can't see how.

**Robert Dee** – Will not require a site plan?

**Glenn Watson** – The section of the code under which we are making this application physically says that it does not require Site Plan approval.

**Robert Dee** – Okay. Will not have any off site significant impacts 175-63B.

**Glenn Watson** – Well I think that the neighbors have raised the issue of off site impacts which would be the visibility and the possibility of flooding that was raised by Mr. Cunningham and Ms. Heanue. I can speak. I would like to speak to... those are some of my response comments.

**Robert Dee** – Okay. Okay, I finished my questions now do you have any response would you like to respond to the whole thing?

**Leslie Heanue** – I'm sorry Mr. Dee wasn't them Historic District, didn't I read?

**Robert Dee** – No. go ahead.

**Glenn Watson** – I think the first thing is wetlands. We don't believe there is a wetlands there, we did what you said to do. Wetlands, If that were not the case, we would be required to get a Wetlands Permit and we would get it. So it's really not, wetlands permit was sold to this town in 1993 okay It is not a thou shall not law it is a law that says thou shall get a permit if you want to do something in the wetland or the wetland buffer. So that wouldn't prevent us from getting a Special Use Permit. So in terms of the wetlands, I walked out there, I am not a wetlands expert.

**Robert Dee** – We already had that done. It's done, Okay.

**Glenn Watson** – The issue of screening and whether or not it's feasible to do it, I am not an expert at that. But as it happens my client and I am now his client I walked out there today and I made an inspection with regard, specifically with regard to the idea of screening. His name is Glenn Griffin, He owns Griffin Landscaping, he's a Certified Arborist, He owns a nursery. We had a discussion I would like to ask him to step in...

**Robert Dee** – Sure.

**Glenn Watson** – ...make a statement with regard to the ability to provide effective screen. We can see the house and before he does... I just want to correct one thing. If this were clear cut, you can see there's not a ridge that is going to block any of view of the house. If it was clear cut just from one place to another there is no question you can see it.

**Robert Dee** - Right.

**Glenn Watson** - But it's not clear cut and it's not going to be. Mr. Griffin.

**Robert Dee** – Mr. Griffin. Glenn Griffin from Griffin Landscaping correct?

**Glenn Griffin** – Yes and I own Hilltop Nursery in Croton-On-Hudson. I'm a Certified Arborist and I was asked to come out and inspect the property today, which I did. I'm not going to get in the middle of whose right and whose wrong.

**Robert Dee** – No, no no. What can you do is what we're looking for, we're asking for.

**Glenn Griffin** – I'm very confident that we can put a very effective screening there. The Gentleman, the applicant.

**Robert Dee** – Mr. Flavin right.

**Glenn Griffin** – Is extremely concerned about his neighbors actually.

**Robert Dee** – Okay.

**Glenn Griffin** – So he wanted to do that kind of elevation with trees and things.

**Robert Dee** – Okay.

**Glenn Griffin** - In my opinion if I was to do this job to be the most effective for the neighbors we would do it in multiple layers where you would have, you know, like thirty feet wide staggered

**Robert Dee** – Okay.

**Glenn Griffin** – So you get the most screen.

**Robert Dee** – Okay, you're saying 30 feet wide, what do you mean by 30 feet wide?

**Glenn Griffin** – No, we're going to stagger trees on the property line so.

**Robert Dee** – At different heights is that what you are saying?

**Lenny Lim** – So it's not a straight line, it's...

**Glenn Griffin** – Staggered.

**Robert Dee** – Okay.

**Glenn Griffin** – However, what I noticed was, this is just my observation okay? So please, I don't want anybody to get mad or stone me or anything like that.

**Robert Dee** – No no no of course. Nobody is here to get mad tonight. we're just here to try to figure this out.

**Glenn Griffin** – (not audible) This is how, I noticed it as a slope.

**Robert Dee** – Okay.

**Glenn Griffin** – And on the bottom, you know, water goes down hill it sits, it's whatever you call it...

**Robert Dee** – Right.

**Glenn Griffin** - ... whatever you want okay, but on the slope, which is really going to be the most dominate area for the screen, I recommended a lot of evergreens you know 14,16,18 and 20 foot Norway Spruce that is what I, that's what I recommended.

**Robert Dee** – And what did the applicant say to that?

**Glenn Griffin** - What ever it takes you know.

**Robert Dee** – The applicant say to that? Do you agree to that Mr. Flavin?

**Steven Flavin** - I would say yeah, I don't want to put words in his mouth.

**Robert Dee** - You agree to trees between 14,16,20 feet high, Norway trees?

**Glenn Griffin** - And then what we did is we went, we went on the property and I said listen I just want to be objective here I want to help you.

**Robert Dee** – Right.

**Glenn Griffin** - And I want to help your neighbor.

**Robert Dee** - That's what we are all trying to do.

**Glenn Griffin** - So anyway that is what I said to him, I said can you just give me a little bit of history, show me what is going to happen? He says to me, you know, Glenn and I forgot your name.

**Stephen Flavin** – Steve.

**Glenn Griffin** – Glenn and Steve said okay this is what it is going to be and you know we went with, the angles and then we went with the elevations and I go well and I said they have a valid point in a way so I said, you know, if we go up to this height which is 16,18 or 20 feet. I think that you would be able to accommodate and accomplish your goal of screening.

**Robert Dee** – Okay and you would stagger them so that would...

**Glenn Watson** - Yeah you would not put them in a straight line.

**Robert Dee** – No, right.

**Glenn Griffin** - It would probably be like two or three layers. Now with that being said, as you get down the hill, I think you are going to want to get plants that are more aggressive and you also have to be very sensitive to the sun, to light you know and you have to be sensitive to the deer. So if we put a nice screening in for these people and the deer come and munch it up it's not going to do anybody any good.

**Robert Dee** – Right.

**Glenn Griffin** – You're kind of limited. Also we were going to put in some potentially some Willows on the bottom. I just didn't know if there was enough water there or not. If you put them in and there's not enough water their just going to struggle.

**Robert Dee** – Okay.

**Glenn Griffin** - And I just figure some River Birch that will get probably anywhere from 40 to 65 feet in height and you can probably add a few poplar in and definitely some like, lets say ...

**Robert Dee** – Okay.

**Glenn Griffin** - ...some Maples and Oaks that are lets just say that are wetland tolerant.

**Robert Dee** - Okay, And Mr. Flavin is open to this okay?

**Glenn Griffin** - One hundred percent, yes.

**Paula Clair** – I have a question. So the trees when you put them in, will they be the height that you specified 14,16 whatever?

**Glenn Griffin** - They are going to have to be, yeah.

**Paula Clair** - Okay so these are pretty big trees to be planting.

**Glenn Griffin** - Here's the other thing too again. Alright the hill is like this.

**Paula Clair** – Yeah.

**Glenn Griffin** – However, there on the bottom, and I don't know the elevations I don't know what the distance is.

**Robert Dee** – No, no right.

**Glenn Griffin** – but if like, if I was going to, if my house was there and I was down there and I went to put a six foot tree in, well I really need an eight or ten foot or not. I'd need like a 12 foot tree or 10 foot to screen on top of that or on top of that.

**Paula Clair** – um-hum.

**Glenn Griffin** - But when you go up the hill you really only need a... really from here I would only need a six or eight footer.

**Paula Clair** – Um-hum. Um-hum.

**Glenn Griffin** - That's obvious.

**Paula Clair** - Um-hum.

**Glenn Griffin** - So but even with what was there they still needed something that was substantial you just can't put a eight foot tree in. I don't believe that is going to be sufficient. And then as you get more down the hill I think you need to put more aggressive plantings.

**Robert Dee** – Okay.

**Glenn Griffin** – I didn't notice, I mean you could barely see it through the wood line, however, I think as the seasons change I think it will become a little more obvious. So an Evergreen that's going to be, what's the word?

**Robert Dee** – Year around.

**Glenn Griffin** - Well you know it's going to be the most effective plant that is going to die or...

**Robert Dee** – Leaves are going to come off or right.

**Glenn Griffin** - You got to put the right planting in. I believe there is only one type. I think it's the Norway Spruce so.

**Robert Dee** - Okay.

**Glenn Griffin** - So with that being said, I hope that was of some help to you.

**Robert Dee** - Okay, thank you. Mr. Watson.

**Glenn Watson** - If I understood the comment before were there any regulations for distance from a historic structure.

**Robert Dee** – Right.

**Glenn Watson** – I'm not aware of any and if you follow that through If you have a historic structure in the middle of a city it's going to be different. But I'm just not aware if there are any. We are, I figure that we are a little over 200 ft from their building.

**Robert Dee** – Okay.

**Glenn Watson** – And what I tried to show on this is very briefly, what I did is, this is the same drawing literally, the same drawing that you saw last month on this easel. What I did is I plotted the Nice's house and I drew some lines from the corners of the house to the corner of the building and this is about 30 feet wide and it would take, this is a thirty scale, 50 scale map so this is about 30 by 100. About 100 so this is about 2 inches that's where you would put the trees to create the...

**Robert Dee** – Buffer, the buffer.

**Glenn Watson** – I did have the courtesy of a call from Mr. Richmond. Always concerns me when a neighbor is that upset. I did check a couple of things. First of all I failed to submit a letter of no violations. That is we submitted that today.

**Robert Dee** – Okay.

**Glenn Watson** - We were thinking that we were exempt from SEQRA because we think, we believe we're a Type 1 Action because it is a Residential Structure an Accessory Residential Structure. I shared some stuff with Mr. Rodd with regard to that and he said it's not such a clear. I forget the word he used, but it's not as clear cut as you think it is. Of course I am on one side.

**Robert Dee** – Who did you speak to, I'm sorry?

**Glenn Watson** – Mr. Rodd.

**Robert Dee** - Oh, okay.

**Glenn Watson** - So he suggested that we put in Part 1 of the EAF which we did. We did recognize that there is that the farm is a Historic, on the Historic Restoration, on the Historic Register

**Leslie Heanue** – Register.

**Glenn Watson** – As is Boscobel. So those couple of errors that I made I tried to correct but as far as qualifying for a Special Use Permit. I just want to be, the law specifically puts us in a category when you said we were non-conforming but the distinction here that has to be made is that we are legally non-conforming as opposed to illegally non-conforming. And that puts us in a category where if we have a non-conforming lot which we are because we have 9. just a little over nine acres as opposed to ten that is required in the zone. That puts us in here for the Special Use Permit. That's and it specifically says in our condition we are eligible for a Special Use Permit provided we meet the other criteria of course. And I do have the notion of putting a Conservation Easement on this piece of property and banning further development. First of all we're in a ten acre zone so anything...There's not going to be a Sub-division, there's not going to be an apartment house in here, we just can't have that. It would be resistant to the imposition of a Conservation Easement. And one other, the other thing you have to look at in the Zoning with regard to the overlay district we are... there is a significant amount of additional protections and stuff within 250 feet of the road that you can understand from the way the code is written that they are trying to discourage any building within 250 feet of the road regardless that the Zoning Setback maybe less. There is a way to do it but it is clearly discouraged. If you have any other questions I would be happy to answer them.

**Robert Dee** – No, I think that's pretty good. I think Mrs. I'm sorry, your last name again?

**Leslie Heanue** – Heanue.

**Robert Dee** – Heanue did you want to say something?

**Leslie Heanue** – I just had....

**Paula Clair** – Mrs. Nice wants to say something.

**Robert Dee** – Mrs. Nice did you want to say something?

**Sandra Nice** – I have a question for Mr. Watson (not audible).

**Robert Dee** - Well they have to get up here and speak to me Okay, we'll go through Mr. Watson that way. Do you want to do that? So why don't you come up here.

**Leslie Heanue** – She doesn't like to (not audible).

**Robert Dee** – I don't make the rules. Go ahead.

**Sandra Nice** – I just have a question...

**Robert Dee** – Your Mrs. Nice, first identify yourself, your Sandra Nice right?

**Sandra Nice** – I'm Sandra Nice.

**Robert Dee** – They want to know, the audience wants to know who you are.

**Glenn Watson** – you have to ask the question through the Chair.

**Robert Dee** – To me. Yeah that's it.

**Sandra Nice** – After all the surveying and the walking of the land I'm just curious, where did you find the spring? On our property or Stephens property?

**Glenn Watson** – I did not find it, I did not find it. It wasn't and Stephen wasn't here to point it out to me.

**Sandra Nice** – Alright Stephen can you tell me, whose property was it on yours or ours?

**Stephen Flavin** – I don't think I know.

**Sandra Nice** – I don't think we know, I'm just curious. We know it's there and we're playing games here.

**Leslie Heanue** – I have a video of it. I literally walked...

**Robert Dee** – Okay, if the spring is going to...

**Sandra Nice** – It's not marked.

**Robert Dee** – I know there are no wetlands at this point in time.

**Sandra Nice** – I know that I'm talking about.

**Robert Dee** – As far as the spring on your property that's between you. You'd have to get a survey

**Sandra Nice** – He is the survey. That's why I'm asking.

**Robert Dee** – Is there a survey there?

**Sandra Nice** – Yes.

**Glenn Watson** – We didn't see the spring but we will be out there doing some work as this project moves forward and we'll locate, we'll contact you and we'll locate it and put it on the map.

**Leslie Heanue** - I can show you it's covered with. It's like a needle in a haystack it's got a fence over it and...

**Sandra Nice** – But it's spewing.

**Robert Dee** – Mrs. Nice let me ask you a question. In listening to the conversation with Mr. Griffin with the Norway trees and what they plan to do and all like that are you a little more comfortable with this project or not?

**Sandra Nice** – I am, I am very comfortable with it.

**Robert Dee** – Okay.

**Sandra Nice** – I question that some of them would be able to grow but I guess...

**Robert Dee** – Well they are talking 16 or 20 feet, I mean I would like to get 16-20 foot trees in my yard I could tell you that.

**Sandra Nice** – We've done it.

**Robert Dee** - Right.

**Sandra Nice** - We put in nine calibers.

**Robert Dee** – Okay, Mr. Flavin does seem like he wants to...

**Sandra Nice** – Yeah.

**Robert Dee** - ...do the best he can...

**Sandra Nice** – Right right.

**Robert Dee** - ...with it, is what I'm trying to say with putting the buffer down.

**Sandra Nice** - I would like to say, the last time we were here, well not here the other place we did like everything that was going on and suddenly we saw the rendering of the building and it wasn't the cute little 800 foot apartment.

**Leslie Heanue** – Cottage.

**Robert Dee** – Right.

**Sandra Nice** – It was huge. It's huge.

**Leslie Heanue** – And originally our rendering is on their side. That's the problem.

**Robert Dee** – I know let me explain something...

**Sandra Nice** – That is why we got a little...

**Robert Dee** – Mrs. Nice it can't be any bigger than 800 square feet.

**Sandra Nice** – Now what is he saying?

**Robert Dee** – It can't be.

**Glenn Watson** - It can't be.

**Robert Dee** – If he builds it more than 800 square feet, he's going to have to take it down. Because the Building Inspector will be out there every step of the way. So an apartment cannot be anymore than 800 square feet.

**Sandra Nice** – I guess I was under the assumption that the garage and the basement or the storage would be in the ground.

**Stephen Flavin** – It is.

**Sandra Nice** – Well it's not in the ground.

**Robert Dee** – Well it looks like It looks like would you put that up there.

**Stephen Flavin** – It's partially under ground.

**Robert Dee** – It's partially in the ground.

**Leslie Henue** –Well Stephen, it's in the ground on your side. It's not in the ground on my parents side.

**Robert Dee** – Alright, alright. Hold on. Address the questions here so we don't loose it. We don't want to loose this.

**Leslie Heanne** - On my parents side it's not in the ground.

**Stephen Flavin** – You see where the wall is, that's in the ground.

**Leslie Heanue** – On your side.

**Robert Dee** – Okay so we did accomplish something by getting the trees. Alright.

**Sandra Nice** – Well actually Stephen said that last time.

**Robert Dee** – That he would do that. He would put the trees.

**Sandra Nice** – And we believed he would do that.

**Robert Dee** – Any other questions? Yes sir.

**Brian Nice** – I'd like to know the size of the foundation?

**Robert Dee** - The size of the foundation. Can you tell me the size of the house with the foundation?

**Jeff Wilkinson** – The overall foundation is 30 feet, approximately 30 feet by 34.

**Robert Dee** – 30 by 34.

**Jeff Wilkinson** – Right because these are bump outs for the.

**Robert Dee** - The bump out is for the.

**Jeff Wilkinson** - For the porch.

**Robert Dee** - For the porch okay.

**Jeff wilkinson** – Okay.

**Robert Dee** - 30 by 34 the bump out is for the porch.

**Brian Nice** – Does that make it 800 square feet?

**Sandra Nice** – 800 square feet.

**Glenn Watson** - That's the garage. That's the maximum.

**Leslie Heanue** – That makes it 1000 square feet. 1020.

**Glenn Watson** – That's the maximum dimensions across the building, it's "L" shaped.

**Robert Dee** – Right.

**Jeff Wilkinson** – It's irregular shaped.

**Robert Dee** – Irregular shaped right. Go ahead, any other questions? Do you have any more Mr. Cunningham?

**Leslie Heanue** – I have one more.

**Robert Dee** – Sure.

**Leslie Heanue** – My other question is in terms of these other conditions that I understand that Stephen will be agreeable to the buffer, to the lighting. In terms of knowledge is that something that is written in code so God forbid something happens to Stephen and someone else comes in the house and says “I want to get rid of these Pines, there a pain the ass”. Is that something that is life long or how is that enforced beyond what Stephens good intentions are?

**Robert Dee** – I’m going to refer this to my Attorney.

**Adam Rodd** – My suggestion would be with respect to the landscaping that was proposed it was a very general descriptive showing of the type of plants and things that would be done I think a suggestion would be to the extent that the Board would be inclined to grant this with a condition and that there would need to be some sort of landscaping plan that would depict the plantings on a survey so it could be a meaning full condition of approval.

**Robert Dee** – Okay, would that be okay with you Mr. Watson?

**Glenn Watson** – That would be fine.

**Robert Dee** – Mr. Flavin, are you okay with that?

(Mr. Flavin shook his head)

**Robert Dee** – Okay go ahead.

**Leslie Heanue** – and can we agree to maybe the condition that we are agreeable that the stupid stream or whatever or we are talking about the runoff or whatever that area is that it needs to be addressed so in other words if you know he plants the tress and the stream isn’t addressed and the trees die then said I met my condition, I planted the trees hay they died how does that work?

**Robert Dee** – Well we already had the Wetlands guy who said there is no wetlands. I understand, he’s telling me that there is no watercourse there so I don’t see how we can try and regulate something that is according to the Wetlands Inspector doesn’t exist.

**Leslie Heanue** – Right.

**Glenn Watson** – There’s a typical thing on that would be that the condition on the plantings be actively maintained and replaced for a period of five years so that they could get a good healthy start and would be attended to once a year by a nursery man once a year that would be an agreeable thing to do. We would be resistant to the idea of having to do that once a year you know they have to deliver a pig to New Rochelle to keep Pelham going every year you know it gets a little onerous after awhile.

**Robert Dee** – Do you have any suggestions to that Mr. Rodd? Put that in, how that would be worded?

**Adam Rodd** – Again I think any condition would need to be in written form with a proposal as you suggest so if... If the Board would be inclined to grant a Special Use Permit it would be on condition of compliance with the depiction of plantings and some sort of agreement on maintenance.

**Robert Dee** – Okay are there any other questions?

**Leslie Heanue** – There was one other point that was on there about the historic, it was number eight173-...

**Robert Dee** – I'm sorry.

**Leslie Heanue** – There was one other thing on when you read off those bullet points and I asked about historic it was 175-63B(8).

**Michael Cunningham**– B(8).

**Leslie Heanue** – B(8) “Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the town.” And you know as I said my parents house is on the Historic...

**Robert Dee** – That doesn't put it in a Historic District.

**Leslie Heanue** - It is a Historic District.

**Robert Dee** – But that, what your reading there doesn't say it's in the Historic District. it's in the historic look of the town, am I correct?

**Leslie Heanue** - Well I think it's under interpretation.

**Vincent Cestone** – It's not a designated historical area.

**Leslie Heanue** – It is. It's on the Historic Register.

**Adam Rodd** – If I can just interject you are correct that is what the statue says and the statue simply requires any approval needs to be compatible with historic resources. So, I mean you are correct and we understand and the Board understands that any work needs to be compatible...

**Robert Dee** – Yeah, sure.

**Adam Rodd** - ...with historic resources.

**Glenn Watson** – I think, I think our agreement to the condition of the landscaping goes directly to the buffer question and this is not the plan that I will submit to you. We will do a little bit better job and I sharpened my crayons before I got here. But this much area about 30 feet wide, I don't have my scale with me but it looks to be 2 inches or about 100 feet long. We can demonstrate how the side lines

project from the corner of the buildings where that would fit. So we will give you a plan which would show the Nice's house, shows where this house is going to be built, shows the limits of the views from those two buildings and we'll have a stripe across that in which is true in which the planting will happen.

**Robert Dee** – Okay.

**Paula Clair** – That's nice.

**Robert Dee** – Okay.

**Robert Dee** – Mr. Cunningham do you have anything else?

**Michael Cunningham** – No, no further questions.

**Robert Dee** – Okay anybody else have anything anyone else want to speak any comment here?

**Brian Nice** – I'm still confused about the distance from the houses historic... but the distance (not audible) like between this foundation and their house?

{Talking amongst audience members (not audible)}

**Robert Dee** – Well their property, at this point we can determine Mr. Flavin's property is not historic piece of land is it?

**Brian Nice** – No, I mean my parents house.

**Robert Dee** – Oh your parents house, well they certainly have enough room for any code go to as far as any distance to go you know as far as distance from house you have over 250 feet 260 feet.

**Brian Nice** – Okay.

**Robert Dee** - But that would pretty much cover any code 250-260 feet.

**Brian Nice** – Okay.

**Robert Dee** - when we look at historic we are looking at too is, you are putting in something that doesn't belong

**Brian Nice** – Right.

**Robert Dee** – You are putting something in that is going to look terrible are you putting something in that doesn't belong. Yeah that is a piece of junk that is what we have to look at. It doesn't conform here that is one of our major concerns amongst many others.

**Leslie Heanue** – And the reason for the postponement just so you know too is because my brother...

**Robert Dee** – What postponement?

**Leslie Heanue** - That we wanted to continue the hearing

**Robert Dee** – You're asking for postponement? You're asking for postponement?

**Leslie Heanue** - No no the reason we are here speaking is because my brother didn't get a full understanding at the last meeting of what was going on.

**Robert Dee** – Okay. that's because he was downstairs and you know.

**Leslie Heanue** - And we appreciate you moving it here but he...

**Robert Dee** – Right.

**Leslie Heanue** - ...but he didn't understand the scope, we couldn't show him this, he saw it at the last minute.

**Robert Dee** - I understand. Unfortunately the Town Hall is so old, they are working on putting an elevator in, I don't know when but that's...

**Leslie Heanue** – But your question was I don't know why we are doing this again and what came up?

**Robert Dee** - No no no I understand that. I thought you wanted to postpone this meeting again. That's what I thought so I apologize. Alright at this time what I would like to do is I would like to take a ten minute break. I would like to go into closed session. I would like a motion to go into closed session because I would like to ask the attorney a couple of questions.

**Lenny Lim** – I'll make the motion.

**Robert Dee** – All in Favor?

**Lenny Lim** – Aye.

**Vincent Cestone** – Aye.

**Paula Clair** – Aye.

**Robert Dee** – Aye.

**Vincent Cestone** – You need a second on that?

**Robert Dee** - Okay we need about five or ten minutes let's say ten. We'll be right back.

**Lenny Lim** – Second.

**Robert Dee** – Paula seconded.

***The Board went into closed session at 8:52 P. M.***

**Vincent Cestone** – I make a motion to come out of closed session.

**Lenny Lim** – I'll second.

**Robert Dee** – All in favor?

**Lenny Lim** – Aye.

**Vincent Cestone** – Aye.

**Paula Clair** – Aye.

**Robert Dee** – Aye.

***The Board came out of closed session at 9:07 P. M.***

**Robert Dee** – Okay we are out of closed session. We discussed a number of issues in closed session. One of the things we discussed was, now Mr. Flavin, the landscaping plan. He didn't have to do that he's going out of his way to do that okay. but he's agreed to do it and with the buffer zone and everything else like that. And also the maintenance thing about what we spoke about. The maintenance thing. You know the thing, the maintenance the trees to make sure they don't die everything like that. So we haven't seen a landscaping plan so you have two choices, okay, I'm going to give you two choices. One choice is we'll give you a special meeting two weeks from tonight if you think you can get those plans to us in two weeks from tonight.

**Glenn Watson** – I can do that.

**Robert Dee** - You can do that. Otherwise it will have to be a month from now because we don't meet in August. I don't want to delay you until September.

**Glenn Watson** – Right.

**Robert Dee** – Okay so you'll have it ready in two weeks from tonight?

**Glenn Watson** - Yes.

**Robert Dee** – That would be July 20...

**Sandra Nice** – Fifth.

**Glenn Watson** – 11...25.

**Robert Dee** – 25<sup>th</sup>. 25 yeah, what is it July 25? Let me see. Let me make sure so no one shows up on the wrong date. My calendar is in my thing, hold on.

**Adam Rodd** – Yeah, the 25<sup>th</sup> is Monday.

**Robert Dee** – The 25<sup>th</sup> is Monday. we'll have it here to accommodate Mr. Nice Okay, I'll make it for 7:30 Monday, July 25<sup>th</sup> and because we didn't feel it was fair to delay you until September that doesn't make any sense.

**Stephen Flavin** – Thank you.

**Robert Dee** – If we voted and anything like that...So I make a motion that we have a special meeting Monday, July 25<sup>th</sup>. Can I get a second?

**Paula Clair** – Second.

**Robert Dee** – Second all in favor?

**Lenny Lim** – Aye.

**Vincent Cestone** – Aye.

**Paula Clair** – Aye.

**Robert Dee** – Aye. And you're going to abstain. Alright so that is what we will do with that. You're going to give us the plan, the landscaping plan and you can present it in a way that Mrs. Nice can understand it and all that to get a rough idea and then...

**Glenn Watson** – Sure.

**Robert Dee** – And at that point in time we will be ready to vote. Okay, I would think.

**Glenn Watson** - Okay.

**Robert Dee** – Mr. Cunningham do you have any more questions? Anybody else have any questions?

**Leslie Heanue** – I just have one other thing because it wasn't clear.

**Robert Dee** – Sure.

**Leslie Heanue** - when I was looking at this in terms of the elevation and the height. I know that we discussed it. Would there be an option in order to appease the visibility of my parents to lower this from 12? This is 12 feet. that means that room is 20 feet from where she's standing in her living room. She has an extra 12 feet.

**Lenny Lim** – You mean you want us to lower the height of the building? No

**Robert Dee** – No, we're not going to entertain that.

**Lenny Lim** – That's what I wanted to make sure.

**Paula Clair** – Did we also want to have the lighting?

**Robert Dee** – The lighting too is going to be in there, we decided that in fact after you leave...

**Paula Clair** – Yeah.

**Robert Dee** - ...You can talk to Mr. Rodd or anything like that about what we need. But that is it the landscaping and the lighting. But you said you were going to do low lighting or you were going to do it shielded.

**Paula Clair** – Downward.

**Glenn Watson** – The idea is fine it would be. I don't want to be presumptive but if Mr. Rodd could be instructed to prepare a resolution should you approve of, then we can have it there and then we could be done with this.

**Robert Dee** – I don't see any problem with that.

**Glenn Watson** – And if he can share those conditions with me you know I would...

**Robert Dee** – Okay.

**Glenn Watson** - I suggested them so I guess...

**Robert Dee** – Alright does anybody, any Board Member have a problem with that.

**Paula Clair** – No.

**Robert Dee** – We'll have Mr. Rodd do the resolution. He'll discuss, you know, exactly what's in the resolution so then we'll vote on it if we vote, however we vote on it that night, I don't know how it's going to be voted on.

**Glenn Watson** – Well if you vote no, then we don't need the conditions.

**Robert Dee** – Then we don't need the conditions. Then you don't have to worry about it. Okay thank you very much.

**Glenn Watson** – Thank you.

**Robert Dee** – Alright, so I guess we are not going to close the public hearing we'll hold it open until July...

**Glenn Watson** – Is there any reason you can't close the public hearing at this point?

**Paula Clair** – because we have...

**Vincent Cestone** – Because then you can't submit anything.

**Glenn Watson** – Oh no. I can submit our conditions.

**Paula Clair** – No, because then we can't...

**Robert Dee** – Mr. Rodd.

**Adam Rodd** – As I understand what the Chairman said is we are holding the public hearing open for the limited purpose of allowing for the submission of the detailed landscaping plan so the neighbor has not come to look at the plan, the Board has not had an opportunity to look at the plan before we even act on the Special Use Permit.

**Robert Dee** – Alright but we will vote on in that night one way or the other. The Resolution will be prepared Mr. Rodd?

**Adam Rodd** – Well I mean that is an option or we can vote to approve or deny with the Resolution to follow but there will be a determination.

**Glenn Watson** – Well we are looking to get into the ground is really what it boils down to and my concern...To be perfectly frank my concern is we've aired a lot of subjects tonight and if we keep it open for those limited purposes, we will be perfectly fine with that.

**Robert Dee** – No I would think that would be for the limited purpose and I would ask too that Mr. Rodd have the Resolution prepared and then we'll go over it here. We'll each go over it ourselves so we are comfortable with it okay?

**Glenn Watson** - That's fine.

**Robert Dee** – That's fine with you? Okay.

**Leslie Heanue** – I would rather be able to, I'm sorry will Brian be able to... will he be able to view the plans before the meeting? or will he...

**Robert Dee** – At the meeting.

**Leslie Heanue** – At the meeting. Okay.

**Robert Dee** – At the meeting.

**Adam Rodd** – There is nothing prohibiting Mr. Watson from sharing the landscaping plan with you.

**Leslie Heanue** – I just know he's going to ask me that. Can I see them? When can I see them?

**Adam Rodd** – I would encourage...

**Glenn Watson** – I'm on a tight schedule but if I have the opportunity to share that with you, I will. You know I gotta...

**Leslie Heanue** - I'm sure that will be fine.

**Robert Dee** – He's only got two weeks to get it ready. Alright he will try to get it to Mr. Flavin before hand and if not we'll give you ample time, believe me, that night to look at it. Because that is going to be the only item here we are doing a special meeting you know just for that Okay.

**Leslie Henue** – No, I know.

**Robert Dee** – Alright thank you. That's it. Okay the next it.

*The continued public hearing stopped at about 9:14 P. M.*

*Public hearing for Griffin Landscaping starting at about 9:15 P. M.*

**Robert Dee** – The next item on the agenda is...

**Lenny Lim** – Griffin Landscaping.

**Robert Dee** – ...Griffith Landscaping.

**Leslie Heanue** – Thanks again.

**Robert Dee** – By now. This is a... I lost my place, this is Appeal number 895. The applicant is seeking... Are you seeking a side yard variance on this also?

**Glenn Watson** – No.

**Robert Dee** - Not in this case, not the side yard. It's not a side yard.

**Glenn Watson** – There was some communication that said we needed a side yard variance but we varied the design so we wouldn't.

**Robert Dee** – Okay so basically what we're looking for is an increase in maximum storage permitted from 20% to 36% is that correct?

**Glenn Watson** – Yes, it said 40 on the application but 36 is what they ended up with.

**Robert Dee** – So is it 36 or 40?

**Glenn Watson** – 36.

**Robert Dee** – Okay just give us a little... Paula wasn't here last time.

**Glenn Watson** – Well this is Griffin Landscaping it's there, What is here today is what we intend to keep there, is a firewood processing business. It's allowable in the district. Essentially logs...trees come in from having been cut down, there broken, sawed up into manageable pieces, they fit into a kiln and they're stacked and processed as dry firewood. I learned tonight that one of the reasons this is an essential business is because there are two bugs out there. What are they Emerald Ash...

**Glenn Griffin** – Emerald Ash Borer and the Longhorn Beetle.

**Glenn Watson** – There are two that are ruining trees and being a big problem and there's a restriction on transporting them and the only way that you can transport any firewood any distance is and I don't know what the regulations are is to basically put the wood through a kiln which basically cooks them. That kiln was placed over here and that caused a violation and we originally looking for side yard variance for the wood kiln. Today it is right here behind the existing building and we discussed it with Mr. Griffin and I just said it's just too much to ask for so he's going to move the kiln to within the setback requirements. So the kiln does two things it kills these beetles these bugs and it also prepares the wood so it is in such a place that it is ideal for firewood. It dries it out, it dries it out to a certain specific moisture and because if you dry it out too much I'm told. Another thing I learned in this process is if you dry it too much it's no good for firewood either. So it has to have a certain moisture content. Anyway that's the process. The wood comes in it gets stored, it gets treated, it gets put through the kiln, and it comes out and it's then processed into packaged it's like the kind you see at the deli and it's also sold in cord wood also you can buy cord wood. there's no public access to this piece of property. There is insurance problems with having the public come in so the only way people can get the wood is to order it and have it delivered. Inside the building is some of the materiel used in the process and typical tools etcetera etcetera. This was originally approved as a nursery and it almost immediately was operated as a processing facility. It was whether it's a letter of the law but it was inspected several times and allowed to continue in this fashion under the zoning law under it's nursery Site Plan Approval. Anyway its been a pretty successful operation. It grew. It grew in an unruly fashion. There were encroachments on to the neighbors property here there were encroachments onto the neighbors property here. There were encroachments from the neighbor over here and the town is taking them to task and we're before the Planning Board in suspended animation. Because they cannot go any further unless we come back with a variance. We worked on the site plan, we moved the kiln as I said before we've given some order to the stock pile materials here we've provided screening towards the neighbor. We've provided screening towards the road back here we are in a flood zone where the Site Plan required fencing to contain the material so it wouldn't get washed away during a flood. That was never done. We've specified that this storage that is in the back that is in the flood zone will be fenced in with a fence strong enough to withstand the flood and will contain the wood which is obviously float-able especially if its got a little less moisture than it started with. So the only way we can make this operation feasible is to have a minimum of 36% as it turned out outside storage area that's permissible. we're only at 20 we need that to keep this operation going and we think that the improvements that we specified here will make this much more tidy operation. It's got a little bit of a bad wrap because of some of the activities on the next property that looks like it's theirs. Somebody is carving bears out of big chunks of trees. And I think I mentioned that the last time. That is not on the site, so if you happen to go by, it sort of looks like it's on the site. I thought it was on the site but it's not. Anyway that is my whole story and I submitted an application I answered each of those five questions to the best of my ability.

**Robert Dee** – No I just wanted to go over them with you. “What possible detriment would the variance have on nearby properties?”

**Glenn Watson** – Well let me get my copy. Because I don’t...

**Robert Dee** – Do you want me to read it because I will read it?

**Glenn Watson** – Okay, because I don’t want to change my story.

**Robert Dee** - “There will be little impact on the neighboring properties because the applicant’s use will be the subject of an ongoing site plan review that will ultimately incorporate removing other non-conformities, such as screening and fencing. The applicant must seek Site Plan approval because its operation constitutes a “Change in Use”, even though it was permitted to operate under the old zoning law on the basis of a site plan approval for a nursery. The site plan approval will require screening and containment that was either not previously required or not previously installed. It will also require the applicant to remove and or relocate nonconforming features and encroachments. In short, the variance will allow the applicant to improve the appearance of its site and continue what has become a successful business venture. Without the variance, site plan approval cannot be achieved. Without Site Plan approval, site improvements cannot be installed. With the variance and site plan approval, the applicant can and will improve the overall appearance of the property and in the area.” Anybody have any questions on that?

**Paula Clair** – I Just have a question. What kind of encroachments were present with the neighbors?

**Glenn Watson** - The smallest one was the kiln, it was set parallel toward the back of the building and actually went over to the neighbors property a little bit.

**Paula Clair** – Okay.

**Glenn Watson** – Not a lot, a foot or so. These stock piles.

**Glenn Griffin** – Not intentionally.

**Glenn Watson** – These stock piles were much bigger than we are proposing they spilled over into the neighbors property.

**Glenn Griffin** – They (not audible) cleaned up.

**Paula Clair** – And so you’re going to move the kiln so it doesn’t...

**Glenn Griffin** – It was just too much to ask for a zero variance. It’s just... I doubt that I would get it.

**Paula Clair** – No. I don’t think...

**Glenn Griffin** – I mean I just took the path of least resistance and at least I will comply immediately.

**Paula Clair** – Right, I mean it shouldn’t be on the neighbors property.

**Robert Dee** – I mean there are no houses there on that property. I mean that property doesn't have any homes on it does it?

**Glenn Watson** - No. This piece of property wraps around here. It's the back end of that Carlson subdivision.

**Robert Dee** – Right.

**Glenn Watson** - and a lot of it is wet. A stream goes through there.

**Robert Dee** – Okay.

**Paula Clair** – Okay.

**Robert Dee** – 1b“What impacts would the variance have on the character of the neighborhood? As with the neighboring properties, there will be little impact on the character of the neighborhood. The neighborhood consists of older businesses that operate fairly close to the road. The subject property is small, but because of its success has grown somewhat erratically, causing encroachments and non-conformities. As state above, granting of the variance will allow considerable improvements on the site and will result in an improvement to the site. Were similar variances granted to the neighboring properties, there might be an undesirable effect on the neighboring properties if not associated with a properly designed, approved and installed site plan. However, the subject property is unique in its activity and, because of its limited size, is unique in its need. It is doubtful that several neighbors would generate the need for similar variances.” Any questions on that? Okay.

Number two “If you didn't get the variance, how else could you build what you want or accomplish your goal? Without the variance the applicant is left with no option, except to relocate. The process requires outside storage of raw and processed materials that take up considerable space. The plan provided by the applicant proposes to provide screening that will minimize the impacts on neighboring properties. Installing the site plan will necessitate a reduction in the size of the operation that is tolerable to the applicant. Simply put, the applicant would rather not move and lose the use of its property.

What is Code requirement you seek to vary? Applicant seeks relief from maximum percentage of lot that can be used for outside storage of 20%, as specified in Section 175-65D(5)(b) to 40%” Now are you looking for 40% or are you looking for 36%?

**Glenn Watson** – I'll take 36% to tell you the truth.

**Robert Dee** – Okay.

**Glenn Watson** – That is what we actually have on there is 36%.

**Robert Dee** – We cut you down already, we cut you down to 36% Okay. “What impact or effect will the variance have on the current physical and environmental conditions in the area? The variance will allow the applicant to achieve site plan approval. Site plan approval will require the applicant to

improve the condition of the property by installing screening, removing other nonconformities and encroachments and containing its product with fencing designed to prevent loss of product during flooding. Vegetation will be added, not removed. Outdoor storage areas within the Controlled Area of Clove Creek will be contained. The noise produced by the actively will be reduced because the level of activity will be reduced. Traffic will not be increased as a result of obtaining the variance and site plan approval.”

Number five “Is the variance requested as a result of a self-created hardship? The need for the variance is self-created. However, it is not the result of willful disregard for the law. It is the result of a successful business needing to take full advantage of the property. The applicant’s owner has reported that in its 20 year occupation, until recently, several inspections were made by the town with only few minor violations that were corrected immediately following notification.” So, I guess basically without this variance you can’t go forward to the Planning Board or anything like that, you are finished, that’s it you have to relocate and if we do give you a variance then you go to Site Plan Planning Board they will still be checking on what you have to do: trees, I think you said you have to put a flair or a mound or something like that to try to cover the site okay. Does anybody have any questions on that?

**Lenny Lim** – I got a question, that pile of wood in front seems to go pretty high sometimes and then lower, is that the way it’s going to be? There is no set height, it’s just going to vary?

**Glenn Griffin** – Yeah, it’s always going to vary because we can’t go above, I think, 12 feet is the law so we try to never exceed 12 feet. It looks like it.

**Lenny Lim** – I live close to you and it looks like it’s higher than 12 feet sometimes.

**Cecila Rohrs** - Excuse me can you raise the mike a little bit.

**Lenny Lim** – I don’t measure it just from driving by it sometimes it looks kind of high.

**Glenn Griffin** – It does look intimidating and not very appealing so whatever the permitted height will be.

**Lenny Lim** – You are going to maintain that?

**Glenn Griffin** – 100% yes.

**Lenny Lim** – Okay.

**Robert Dee** – Is that where you plan to put the mound and the trees in front of that pile, high pile that Mr. Lim is talking about?

**Glenn Watson** – Right.

**Robert Dee** - Okay so that would be less intrusive?

**Lenny Lim** – Yeah, right on Route 9.

**Robert Dee** – Anybody else have any questions?

**Vincent Cestone** – What would happen if you were denied tonight? What would you do?

**Glenn Griffin** – I would be out of business.

**Vincent Cestone** - You mean out of the wood business but you have your other business right?

**Glenn Griffin** – Yes, but that is the only way I survive in the winter and It's my livelihood. It's what I do.

**Vincent Cestone** – There is no other property that you could do this on?

**Glenn Griffin** - Look I've looked everywhere.

**Vincent Cestone** – It's like right along the main highway?

**Glenn Griffin** – I've been there for 20 years if I didn't put that kiln there, I wouldn't be here tonight.

**Robert Dee** – Okay.

**Glenn Griffin** – And I did that to comply with the law.

**Robert Dee** – Alright any other questions from the Board? Anybody in the audience have any questions on this? Okay at this time I make a motion that the public hearing be closed.

**Lenny Lim** – I'll make the motion.

**Vincent Cestone** - I'll second it. I'll second it.

**Robert Dee** – All in favor.

**Vincent Cestone** – Aye.

**Robert Dee** – Aye.

**Paula Clair** – Aye.

**Lenny Lim** – Aye.

*(The public hearing closed at 9:28 P. M.)*

**Robert Dee** - It's unanimous. Now we'll vote on granting the variance or deny it. Ms. Clair.

**Paula Clair** – I vote to grant this variance.

**Robert Dee** – You vote in favor of this variance. Mr. Lim.

**Lenny Lim** – I vote in favor.

**Robert Dee** - Okay you vote in favor. Mr. Cestone.

**Vincent Cestone** – I vote in favor too.

**Robert Dee** – Okay you vote in favor and I vote in favor too so it's unanimous.

**Glenn Watson** – Thank you very.

**Glenn Griffin** – Thank you so very much.

**Robert Dee** – Okay our Attorney will prepare the resolution. Alright next one, final. And you wonder why no one volunteers, right? This is an application a review of an application for Mr. Morrison, Marrison

**Terry Lennon** – Marrison

**Robert Dee** – Marrison, are you Mr. Marrison?

**Christopher Marrison** – Yup.

**Robert Dee** – Okay, I guess this is for an extension of your current home and this is just a review to see that your application is complete Okay? There are some things missing and you are I'm sorry.

**Terry Lennon** – Yeah, I'm the Architect Terry Lennon it's my first time before the Board.

**Robert Dee** – Okay Mr. Lennon.

**Terry Lennon** – It's a little chaotic, The Building Inspector wasn't...

**Robert Dee** – Well yeah we didn't have a Building Inspector but we do have one I think now, Didn't he start today? So what you're going to have to get, what I see missing is and then we'll go through the Board members. There is a Zoning Board of Appeals supplement work sheet that's the thing that is the five factors that we went over with Mr. Watson, you will have to get that and fill it out. And also we need some measurements in looking at your plans here,

**Glenn Watson** – Good night.

**Robert Dee** – Good night.

**Vincent Cestone** – Here Bob.

**Robert Dee** – I got it. I got it a lot of measurements like on page page A101 you got A101. I didn't know where the measurements went from the full foundation to the side and you know you don't have any of that.

**Terry Lennon** – Right. We are waiting on the survey as well to make the whole package complete and I...

**Robert Dee** – Okay.

**Terry Lennon** - ...and I thought that what was here was it is that you would still be looking for the height limitation and heights and so on.

**Robert Dee** – Right.

**Terry Lennon** – Well actually, I'm sorry, say that again. What's missing?

**Robert Dee** - There's nothing here. Like there's nothing here.

**Terry Lennon** - The next page has the dimensions on it.

**Robert Dee** – from where?

**Terry Lennon** – The addition, the addition has the dimensions on it. You have something different, that's odd. Oh no it's here, I'm sorry.

**Robert Dee** – It's not here it's not the full length.

**Terry Lennon** – The existing lengths you mean?

**Robert Dee** – What I need is just so you know when you come back next time, I'm going to need all the measurements. Anything that you see that's open, I want to know how big it is. How Wide it is or how long it is.

**Terry Lennon** – Okay. Existing and proposed.

**Robert Dee** – Existing and proposed Okay?

**Terry Lennon** – Okay, is there a way we can... we'll have that ready for the next meeting. But does that allow us to be able to proceed?

**Robert Dee** – No, the next meeting is going to be to review the application to see if it's complete.

**Terry Lennon** – No, I mean...

**Adam Rodd** – Well I think you can definitely schedule it for a public hearing on condition that at the public hearing they provide those numbers. I don't see a purpose for another review for this purpose.

**Robert Dee** – Okay we can do that, we can do that. So make sure that when you leave tonight that you have everything that we're talking about that you need okay? The other thing that I need, what I see anyway is we need... What is the square footage of the existing house, do you have any idea?

**Christopher Marrison** - It's about 1700.

**Robert Dee** – 1700 and what's the square footage of what you are planning to do?

**Terry Lennon** - It's going to be an addition, not including the garage. It's approximately almost another 1100 square feet.

**Robert Dee** – That's almost as big as you have now?

**Terry Lennon** – It is. It's on yeah I mean they're matching up level to level but.

**Robert Dee** – Okay, now I know the house. I drove by it. I know the house is pretty close to the road okay. So you have to understand you are asking for a real big variance here.

**Terry Lennon** – Right.

**Robert Dee** – 60 feet is required you're asking for 39 feet?

**Terry Lennon** – The variance will be 39, yeah.

**Robert Dee** – The variance will be 39 feet, you know that is more than half (not Audible).

**Terry Lennon** – Right.

**Robert Dee** – So that is a really big variance you have to understand that right?

**Christopher Marrison** – Well yes, but we asked from it in terms from the property line.

**Robert Dee** – Right.

**Christopher Marrison** – I believe that should be from a distance from the center of the road.

**Robert Dee** – From the property line.

**Lenny Lim** – We can use either or I'm not sure. In the old code.

**Christopher Marrison** – So it's about 50 feet from the center of the road.

**Robert Dee** – Let me ask the Attorney. What are we going by?

**Adam Rodd** – This is something we can double check with the Building Inspector but either way an area variance because of an insufficient front yard setback.

**Robert Dee** – Okay.

**Adam Rodd** – So, we are not here to discuss the merits, whether or not your entitle to a variance we're just here to discuss what you would need for the public hearing.

**Robert Dee** – Okay.

**Terry Lennon** – Well I appreciate the heads up though on what you have already seen.

**Robert Dee** – Yeah.

**Terry Lennon** – So considering what you need and so.

**Robert Dee** – Yeah you have to go back to the building inspector to get the supplement worksheet and everything like that. You know the 5 factors, the measurements.

**Terry Lennon** – Well that's easy, we'll make sure we have that.

**Robert Dee** – And I just have a question in looking at the property I see a lot of room to the side of the house where an old foundation is or something like that.

**Christopher Marrison** – Yeah.

**Robert Dee** – Would it be possible for you to put it there instead of in the front?

**Christopher Marrison** – We have tried all different kinds of designs.

**Terry Lennon** – There's a couple of reasons why it's difficult one of the reasons is we are trying to maintain a connection to the house. When they moved in 15 years ago there was just the two of them and now they have kids. But actually a little more pressing is that the septic system starts very shortly after that. So this currently is where they pull in and park. So in a sense we are putting the building around the parking area that they always maintained. If you were there you saw a pull in off the side of the road there and the lawn/ gravel area at the bottom that is where this is going and anything further back is septic field.

**Robert Dee** – Okay.

**Christopher Marrison** – And also it's not (not audible) shown on the map but here. This is an eight foot drop.

**Robert Dee** – Right.

**Christopher Marrison** – And this is an old stone wall you would have to do a lot of work to deal with that.

**Robert Dee** – To prepare... I know the house is what 5-10 off the road.

**Terry Lennon** – I think it's even less.

**Robert Dee** – It can't be more than 10 feet from the property line. It can't be any more than that?

**Terry Lennon** – Almost, I think it's on the property line. I mean we pushed it, not that we had many options but we pushed it as far back from the road and still be connected to the house as we could and we also happen to be bumping up against the septic.

**Robert Dee** – Right and I guess. This is a front. Adam this is a front yard it's not a side yard variance right?

**Adam Rodd** – It was referred as a front yard.

**Robert Dee** – That's what it would be right?

**Adam Rodd** – Variance so 60 foot is required.

**Robert Dee** – 60 foot right.

**Adam Rodd** - And proposing a 21 foot setback.

**Robert Dee** - Is there anything else other board members would like to see or that you think we might need? Anything? Anything? Okay so...

**Christopher Marrison** – Is the survey sufficient?

**Vincent Cestone** – Does it have to be updated?

**Robert Dee** – With the survey I don't see any problems with the survey. does anyone see any problems with the survey?

**Lenny Lim** – Vin.

**Robert Dee** – Yeah, I don't...

**Terry Lennon** – I'll bring the required dimensions.

**Robert Dee** – Yeah, I want to see all the measurements. I want to see as far as the plans go and everything like that, what you proposed and everything like that. And mark it as such so we can understand it.

**Terry Lennon** – Yes.

**Robert Dee** – So you are actually proposing to put it pretty much on the front of the house and about half way over.

**Terry Lennon** – Yes, it's more than half way over and it's hard to call that the front of the house. You can't really... it's almost the back of the house.

**Robert Dee** – But, what I can see it from the front of the road. I looked at it when I drove by, I looked at it I said “I couldn’t believe how close to the road it was” number one. Number two it looks like you are going back like halfway back so.

**Terry Lennon** – Yeah the house has been there a long long time, you look to the opposite I don’t think we can talk about that now but it’s basically Manitoga up the hill there are no neighbors to speak off that could even see this except up the hill which Chris is familiar with.

**Robert Dee** – Well we’ll get into that. You’ll be surprised when you mail to the neighbors you never know who will show up. Okay

**Terry Lennon** – Right. Well hopefully it’s not like this last one we sat through but...

**Robert Dee** – Well.

**Terry Lennon** – ...we’ll see I guess.

**Robert Dee** – The question will be to get in touch with the Building Inspector and Linda will be there, our Secretary, show him everything you have, tell him what we said. See if you need anything more.

**Terry Lennon** – Very good.

**Robert Dee** -Okay.

**Vincent Cestone** – Are you going to update this? Are you updating this did I here you correctly?

**Terry Lennon** – I think it can stand on it’s merits now. We’ll make sure it’s more of a complete survey with a scale.

**Vincent Cestone** – The reason why I asked is because it’s not really clear what the addition is on this.

**Terry Lennon** – I can make it clearer.

**Vincent Cestone** - Yeah, that would be very helpful for me.

**Terry Lennon** – Sure.

**Christopher Marrison** – It’s that’s square.

**Vincent Cestone** – That’s what I assumed but you know.

**Christopher Marrison** – Yeah that’s it.

**Vincent Cestone** – Initially I thought it was a whole structure.

**Christopher Marrison** – I see.

**Terry Lennon** – I'll Clarify that because that is something you're looking for.

**Vincent Cestone** – Yeah, I would appreciate it.

**Robert Dee** – Anybody else have anything? Alright like Mr. Rodd said this is not going to be until September 12<sup>th</sup>,

**Terry Lennon** – Right.

**Robert Dee** – Because we don't meet in August. It's the second Monday and it will be back at the Town Hall. This was just for a handicap person. So it will be back at the Town Hall and we'll review it and we'll vote on it complete then we'll have the public hearing.

**Terry Lennon** – On that day?

**Robert Dee** – On that day.

**Terry Lennon** – Sure.

**Robert Dee** – Right. Okay so we'll set up for the public hearing as far as neighbors do you have all that? Or do you have to work on that?

**Terry Lennon** – Yeah that's all in there.

**Robert Dee** – That's all in there? Well double check with Linda when you go to the Building Department make sure she has everything she needs. That's it gentleman, thank you.

**Terry Lennon** – Thank you. Thank you Mr. Rodd.

**Robert Dee** – I make a motion that we adjourn.

**Lenny Lim** – I second. Are we meeting here on the 25<sup>th</sup>?

**Robert Dee** – No no the 12, The 25<sup>th</sup> is here.

**Lenny Lim** – That's what I'm asking. The 25<sup>th</sup> is here. The 12 is back at the Town Hall.

**Robert Dee** – Yeah, correct the 25<sup>th</sup> is just Mr. Flavin that's just a special we'll do that because you know we didn't want to delay it any more. Okay, that's it.

**Vincent Cestone** – Are we done?

**Robert Dee** - I'm sorry.

**Vincent Cestone** - Did we adjourn?

**Robert Dee** – I make a motion that we adjourn, everybody we're done.

(The meeting adjourned at 9:39 P. M.)

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

DATE APPROVED: \_\_\_\_\_

Respectfully submitted,  
Linda Valentino  
Secretary

## ZONING BOARD OF APPEALS

July 25, 2016  
MINUTES

The Zoning Board of Appeals for the Town of Philipstown held their regular monthly meeting on Monday, July 25, 2016, at the Philipstown Recreation Department, 107 Glencllyffe Drive, Garrison

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

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

**Chairman Robert Dee** opened the meeting at about 7:36 P. M.

At tonight's special meeting this will be the third public hearing on this issue which was called basically to discuss landscaping plans that Mr. Watson was going to present landscaping and maintenance plans I think also. Since this last meeting we had two weeks ago we received a great deal of information; a letter from the Parks and Recreation Historic Society pages long. Pages from Zarin and Steinmetz Attorney, I guess that's Mr. Cunningham. Here he sites the number of legal cases and all like that. And then we have another one from Cuddy and Feder and a Badey and Watson plan which is the Full Environmental Assessment form. Which was prepared by them so there is no way that we can vote on this tonight. There is just to much information. So we'll go forward with the landscaping and then this public hearing will be continued until September 12<sup>th</sup>. Alright, I want to just start the landscaping please.

**Cecilia Rohrs**– Glenn can you just grab that mike.

**Robert Dee** – I think this was basically for a buffer zone is that correct or?

**Glenn Watson** – Correct. Sorry, I have to do this.

**Robert Dee** - Yup, no problem.

**Glenn Watson** - What you're seeing on the left... incidentally there's a full size copy of this in the back of the EAF and there is also a reduced size copy of it in the back of the EAF.

**Robert Dee** – Okay.

**Glenn Watson** - We had a landscape, our Landscape Architect look at the site, come out and view the site. We walked the site for a good while and considered the question which is basically want of a screen view of this building from the neighbors and we came up with a plan that we think is

appropriate. Also, just to guide you through this dark black line that's crossing the property line is between the two properties. You'll remember that Ms. Heanue asked us to locate a spring that was there. She showed it to our field surveyors. We located it and we also located a small damp area that's dampened by the outfall from the spring. It covers about 2800 Square feet and we plotted that boundary and then we looked at what we could do with the building and placing the building we move it, I think a couple of feet closer to the property line and rotated it so that with regard to what we did to the building that's perhaps, I think the most significant with regard to the building. If you recall the last plan had the driveway turning more sharply and coming into the garage in the front of the building so that the garage door faced the neighbors property. We talked with the client, with Mr. Wilkinson the Architect who will show you that in more detail and we decided that it was just feasible for us to put the garage door on the side of the property. That does two things that are commonly thought of as not very pleasing. A lot of people don't like to look at garage doors simply because they are big and wide and not terribly pretty. So we've eliminated that but more... we did substitute an access door, a man door down in the corner of this building so you will see that we don't have a driveway going directly in. And we have put in a retaining wall here that will allow us to bring the soil up to cover much of the foundation that would otherwise be exposed in place of the garage door. Now it's not completely covered there but again Mr. Wilkinson will tell you with regard to the foundation that it is being faced with local stone. So what you see here in the darker green is the existing canopy of the trees and individual trees are located in this, particularly in this area. We established a corridor by connecting one corner of the proposed accessory building to one corner of the house and the outer most corner of the accessory building to the outer most corner of the house. And have a corridor which would see from one building to the other. So we designed the driveway to come around the building a little helpful with the grade because it's a little longer because you need to lengthen the grade and then we... From starting behind the wet area we started to build ground up and we talked about a berm. A berm in my view is a mound that goes up, crests and goes back down. Well it does come up. It doesn't really crest it just continues to go up to the house so we have a consistent more lawn like thing rather than have this up and down and then a low spot in between the house and the berm. So we have, and then we carefully placed trees, proposed trees in the 14 to 18 foot range, I believe, there is also several other small plants to fill it out and so when you look at the chart that's at the bottom of the thing. You'll see the sizes of the trees and so this location is raised, it's closer to the house. The proposed accessory building, excuse me. And it was done to avoid going to this damp area and it was done to be as affective as we could be.

Sorry (not audible) I apologize.

So you can then look, there are three site lines each of the out bounds of the corridor that I described before in the plan. And your plan will be black and white so you will be able to read these more easily. Each of them, there are three site lines each of the out bounds of the corridor and one right down the middle of the corridor. We transferred those into site line profiles where we have the Nice residence and we have the accessory structure and we have the ground along each of those site lines and if you look particularly at either of them you will see how the original ground is lower and then this the proposed ground is getting raised, raised up and rather than go back down to the original ground that is what I was trying to talk about with the berm. We placed trees representative of the trees at the height they'll be installed so you can see the actual height of the trees being installed and if you look closely at the plan you'll see where they are expected to be in five years and where they are expected to be in I think, in one is thirteen years and the other is 12 years based on growth rates that you get from plant manuals. There are details about the plantings. There is, I believe, there are notes about maybe there are

no notes maybe we'll have to add that, but we've specified that the trees have to be sprayed once a year to make them more tolerant of that disease that was killing the Hemlocks. There are Hemlocks in there and we would consider changing out of that. We've specified a deer fence to surround these things to keep the deer away from the trees. And as you can see there the ground floor is immediately blocked from view. The view is blocked from the ground floor of the Nice residence immediately upon installation, it happens in all three situations. I need to say this, that you know, these trees are cone shaped so there will be places in there where you'll get a glimpse and I don't want to represent that this is a wall.

And my easel is broken. I may have to just hold this up.

**Jeff Wilkinson** – (not audible)

**Glenn Watson** - Just take that away. Just hold it.

**Taylor Palmer** – There it is, I got it Glenn.

**Glenn Watson** – Thank you. The roof will be visible for a period of time, eventually that will be covered up and again we specified trees between 14 and 18 feet high which I think is in the range that we spoke about at the last meeting. I would like to ask Mr. Wilkinson to go through his building plans to show you the lights, where they will be located and describe how they will be directed because I know that was a concern as well.

**Paula Clair** – (not audible) Does that show on that map where the Nice's residence is?

**Glenn Watson** – This is the Nice residence down here.

**Paula Clair** - Oh, okay, okay.

**Glenn Watson** – And this is the corridor.

**Paula Clair** – Okay.

**Glenn Watson** - And this is the proposal.

**Paula Clair** – Oh. Okay.

**Robert Dee** - There are trees there now, I mean there are woods there now? I mean (not audible).

**Glenn Watson** – Yes. This is pretty much the way it is.

**Robert Dee** – (not audible) Right.

**Glenn Watson** - This is the canopy.

**Robert Dee** – Right.

**Glenn Watson** - This is the scrub stuff, not very.

**Robert Dee** – Right.

**Glenn Watson** - You know it's not a lot there.

**Robert Dee** - Right.

**Leslie Heanue** – Actually, all that green stuff right there, those are not trees.

**Paula Clair** – What are they?

**Leslie Heanue** – That is just grass. Their property is all lawn. So that bush of trees right there. These are not trees right here. These are not trees. All of this here, these are not trees. This is lawn.

**Taylor Palmer** – (not audible) for the record.

**Robert Dee** – But there are trees on both properties?

**Leslie Heanue** – On the Nice's property there is maybe one or two. There's these three specimen trees, there's a couple of dying Hemlocks that are in here...

**Robert Dee** – Right.

**Leslie Heanue** - ... there's an Apple Tree, there's a Pin Oak Tree.

**Robert Dee** - Mr. Flavin's property has trees though?

**Leslie Heanue** – (not audible)

**Robert Dee** – Yeah. Okay, thank you.

**Adam Rodd** – Just for the record what is the distance in feet from the residence on the Nice property to the proposed structure?

**Glenn Watson** - 225 plus.

**Adam Rodd** – Okay.

**Robert Dee** – Is there anybody... Oh the Architect Okay. I'll let Mr. ... I'm sorry. Are you changing the position of the house, is that what you're doing?

**Paula Clair** – Yeah.

**Robert Dee** - Is that what you are doing?

**Jeff Wilkinson** – Glenn mentioned that we are changing it slightly.

**Robert Dee** – Slightly.

**Jeff Wilkinson** – Just two or three feet from what had been presented before.

**Robert Dee** – Okay. Well tell us what changes you are making because we've gone through the plans enough on that.

**Jeff Wilkinson** – Jeff Wilkinson, Architect, for the project. Before I had presented something along this line where the garage door's facing south. We made a grading change off this existing drive so that the garage door was at the west facing away. It allows for a softer grade. Other things, and I'll go through the elevations The exterior lighting will be mounted, this is a covered porch, it will be mounted on the under side of the porch here. This is an over hang. The exterior lighting will be mounted on the underside of that. This doors over hang lighting will be on the side of that. It will all be shielded, no spillage. Spillage would be directed down.

**Robert Dee** – Okay, that is the pedestrian door right? Yeah, a man door.

**Jeff Wilkinson** – Yeah, so and these positions that would be the elevation showing the garage door on the west side so there would be lighting located underneath this, underneath here and underneath the porch. At the back there is a path getting down from the upper house to the back of the facing Mr. Flavin's house. There is a goose neck barn lighting type of exterior that would be a down light to light a path at the back.

**Robert Dee** – Okay.

**Jeff Wilkinson** – So that is the extent of the...

**Robert Dee** – Changes, lighting.

**Jeff Wilkinson** - ...lighting location and the overall effect of the grading which would give a much...

**Robert Dee** - Right.

**Jeff Wilkinson** - ...better, softer grade to the project.

**Robert Dee** - Okay, and the height of the structure from (not audible) to the ground?

**Jeff Wilkinson** – The height of the structure is 29.7 to that ridge. Just so we're clear, Town of Philipstown measures to the median, so this is very well below what's allowed.

**Robert Dee** – Right. Okay.

**Paula Clair** - And the lighting from the garage is now not facing the Nice's house directly?

**Jeff Wilkinson** – Right the lighting would all be built under...

**Robert Dee** - Under overhangs.

**Paula Clair** – Right, but the direction, you changed the direction of where the garage is being constructed so is that changing the direction away from the Nice's house?

**Jeff Wilkinson** – Yeah, Yes.

**Paula Clair** – Okay.

**Jeff Wilkinson** – You know, the existing drive comes down right, so.

**Paula Clair** – Yeah, yeah.

**Jeff Wilkinson** – Okay.

**Robert Dee** – Alright thank you. Does anybody else...

**Jeff Wilkinson** – There was some concern about actual car headlights.

**Robert Dee** – Yeah, right.

**Jeff Wilkinson** - I mean the upper that's already a driveway where Stephen parks cars now.

**Leslie Heanue** – No it's not. No it's absolutely not.

**Robert Dee** – Yeah, Okay, that's not going to happen here tonight okay. Everybody will get a chance to speak. We're not going to interrupt each other. It's hot in here and we're going to do the best that we can. Yes.

**Taylor Palmer** - For the record.

**Robert Dee** - What are you addressing?

**Taylor Palmer** - I just want to present the packet that we prepared for the Board for the purpose of the record identifying what we've enclosed for the Board this evening and then of course we will certainly welcome to turn it over at your direction to comments from the public.

**Robert Dee** – You are?

**Taylor Palmer** – I'm Taylor Palmer with the Law Firm Cuddy and Feder on behalf of the applicant.

**Robert Dee** – Okay.

**Taylor Palmer** – As the Board is aware there are packets in front of you that were submitted by our office today, July 25<sup>th</sup>. For the record the applicants did coordinate a meeting over the weekend with our engineer, Glenn Watson with the adjacent property owners to review the landscape plan that is before this Board this evening. In addition to making some changes to the plans we have submitted a

packet that goes through how this project, this proposed accessory garage with the excuse me, the garage with the accessory apartment satisfies the actual permit uses within the Zoning Code in the Town of Philipstown. We respectfully submit before this Board as we identified to the Zoning Board Attorney that this is indeed a type 11 action. It is a minor project and we've submitted that because of its location adjacent to DeRahm Farm it is not an unlisted action that would otherwise bring it to a type 1 action. It is in fact a Type 11 action so it is not subject to SEQRA. We have submitted that full EAF in response to the Board's request so that there is that additional information for the Board to consider. But we respectfully submit that this is a Type 11 action that would not otherwise require further SEQRA review on the project. At this time I certainly would welcome from the Chairman and the Board any questions that they may have. We certainly appreciate the fact that you've set this special hearing for us tonight en-braving the heat and hot weather tonight in here.

(Not audible)

**Taylor Palmer** - But at this time those are generally our comments. If there are any questions we're certainly prepared to address them.

**Robert Dee** - Okay well thank you for preparing this it will certainly help us in our deliberations that's for sure but you can understand, you know, we just got this today so there is no way we are going to sit here in 90 degrees and go through this.

**Taylor Palmer** - We certainly appreciate that and we certainly not pushing for that close of the hearing.

**Robert Dee** - Okay. Thank you very much.

**Taylor Palmer** - Thank you.

**Robert Dee** - Anybody else want to speak on this landscaping and the lighting?

**Daniel Richmond** - Thank you very much chairman. Chairman Dee and Members of the Board my name is Daniel Richmond and I'm a partner with the Law Firm Zarin & Steinmetz here on behalf of the Nice family. I appreciate your Board coming out tonight, again in this weather. I appreciate the effort your Board has made into this. We do appreciate the efforts that they have made to tweak there plan and we do appreciate Mr. Glenn Watson to coming out and meet with the Nice family over the weekend to learn first hand some of their concerns. Unfortunately we still do have significant concerns including about the specific location of the project and we have spoken preliminary with the applicant about some changes we think need to be made to the project in order to make it conform to your code including the Special Permit requirements that it not, should not adversely affect neighboring property owners in-particular as we previously advised your Board. The Nice family not only has concerns about the aesthetic historic quality but one of the members of the family is prone to seizures. We are concerned about lights including from car traffic, its impact which would obviously violate this, you know, the criteria for projects that it not cause glare or create any public or private nuisances.

**Robert Dee** - That's your opinion.

**Daniel Richmond** - That's the code I just read.

**Robert Dee** – The code is what that the light affects the what? What? Give me that one again about something about lights.

**Daniel Richmond** – The code that I just read to you?

**Robert Dee** - The headlight affects something?

**Daniel Richmond** - Will not result in excessive off premises noise, dust, odors, solid waste or glare or create any public or private nuisances.

**Robert Dee** – Okay so you feel that this is going to do that?

**Daniel Richmond** – We are concerned about that.

**Robert Dee** – Okay.

**Daniel Richmond** – And we really think it can be addressed.

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

**Daniel Richmond** – I think the most direct way would be there are areas on the property where I think it will be much more conducive have less adverse impact on neighboring property owners. But if we are going to talk about this project it does need...

**Robert Dee** – We're talking about the landscaping and the lighting. That's what this meeting was called for. What the meeting was called for tonight was to discuss the landscaping and the lighting.

**Daniel Richmond** - Well again, I mean if we're... you know, one of the things that need to be done in terms of we consider in term of the landscaping impact if that is what we are talking about is shifting...

**Robert Dee** – Sure.

**Daniel Richmond** - ...the driveway over to this side of the house would eliminate light traffic from cars coming this way which again could have adverse impact on the Nice family. We do have concerns about the trees they've selected and we've expressed it to Mr. Watson, I think there is some adverse activity on their part that we think they are susceptible to the deer. We're not interested in the deer fence. We've also as they now can see this is a damp area, we're concerned about the ongoing viability of trees there and we would expect that any landscaping plan would be accompanied by a bonding requirement to ensure the continued viability of landscaping there for at least five years. But again we are, we have indicated to the applicant that we are willing to talk to them to express it so they can hear our concerns. We are willing to meet with them. We appreciate your Board holding this hearing over. We just got their submission tonight I would say with respect to the Type 11, I've looked at the Type 11 criteria they're sighting and I think they're off point. Their sighting something about construction, or expansion, da,da, da, da of residential structures. They're neglecting to site the fact that this requires a Special Use Permit. Which makes a discretionary determination which makes this an unlisted action

and because it's an unlisted action taking next door, taking place next door to a Historic District it becomes a Type 1 presumptively requiring an...

**Robert Dee** – It's not a Historic District. It's a historic landmark. Her house is not a Historic District.

**Daniel Richmond** – It's part of a district.

**Robert Dee** - A Historic District is like Cold Spring, that has a lot of houses (not audible).

**Daniel Richmond** - Yeah right right.

**Robert Dee** - So hers is a historic landmark, not a district, am I correct or wrong?

**Daniel Richmond** - It still triggers the same thing under SEQRA.

**Robert Dee** – But it's not a Historic District.

**Daniel Richmond** - Is it a Historic District, it's a landmark property? Property right?

**Sandra Nice** – Yes.

**Robert Dee** – (not audible).

**Daniel Richmond** - It's a landmark property.

**Vincent Cestone** - It may be a historic structure but it's not a District.

**Robert Dee** - It's not a Historic District there's a difference.

**Vincent Cestone** - There's a difference.

**Daniel Richmond** – I understand but again there may be a difference of a nomenclature in terms of SHPO but we're talking about SEQRA and what triggers a SEQRA Type 1 requirement is the proximity to a landmark or a district.

**Robert Dee** – Okay.

**Daniel Richmond** – If the Board has any questions again.

**Lenny Lim** – (not audible) question.

**Daniel Richmond** – Sure.

**Lenny Lim** – What are you worried about mostly, the glare from headlights coming down the driveway?

**Daniel Richmond** - I'm hesitant to prioritize but that is a significant concern.

**Lenny Lim** – Right.

**Daniel Richmond** - It's light coming down the glare. One of the family members bedroom is right here who has the sensibility to seizures dines here on a regular basis. It's something that we are significantly concerned about.

**Lenny Lim** - Here's a question for you guys. How many people are going to be living in that house? How many people are going to be living in that house?

**Stephen Flavin** – one person.

**Lenny Lim** – How many times at night is she going to be driving up and down that driveway? Once twice. Twice maybe. Going in and out in the dark in the winter and that's going to be the occupant is that...Okay thank you.

**Robert Dee** - I understand and like I say we've been very gracious with this. I mean this is the third public hearing. We're going to have another public hearing so we're not making a snap decision on this. Nobody's making a snap decision.

**Daniel Richmond** – I know, I appreciate it (not audible).

**Robert Dee** – We all just got a pile you know. One thing I just want to ask all of you. What do we have, three Attorneys here tonight? Right one two three. I'm going to ask to get any legal things that you have please get them to the Board not the day of the meeting or two days before. Get them at least a couple weeks before so we can have time to review them. Because otherwise it's just going to prolong and prolong and prolong what we are doing here. Okay?

**Daniel Richmond** - I appreciate that Your Honor.

**Brian Nice** – Can I say something?

**Robert Dee** – He's not finished yet. Wait a second when he's finished. You can talk when he's finished. go ahead.

**Daniel Richmond** – I am finished if (not audible) would like to speak.

**Robert Dee** – Yes.

**Daniel Richmond** – Should I bring the microphone over?

**Robert Dee** - No go ahead Mr. Nice we can hear him go ahead Mr. Nice.

**Cecila Rohrs**– I can't hear him.

**Robert Dee** – I know.

**Lenny Lim** – She can't.

**Brian Nice** – I'm sorry it's taking too much time but one seizure is equal to one one second to trigger a seizure and they're no fun I'll tell you that. That's why this is the third meeting. I know, I know Steve grew up (not audible) you know the (not audible) should be storage. (not audible) So it should be up high and dry. It's most important for people who build houses and I'm the first one to know that when you have dry storage it should be high and dry. Down by that spring it's going to be bad for the stuff. I know. So between the seizure, the storage and the historical value of the property around it. You know it's not fair for us.

**Robert Dee** - Okay, thank you very much. Stand up please and go to the microphone please.

**Sandra Nice** – So my question...

**Robert Dee** – Identify yourself. So that they know on the TV. You're on TV (not audible).

**Sandra Nice** - Do you want my name?

**Robert Dee** - Yes Please.

**Sandra Nice** – Sandra Nice, I'm one of the owners of the house next door.

**Robert Dee** – Okay. Go ahead.

**Sandra Nice** – And I don't know who to direct it to. To you Stephen? or...

**Robert Dee** – Address it to me.

**Sandra Nice** – To you?

**Robert Dee** - Address it to me.

**Sandra Nice** - The question?

**Robert Dee** – Yes.

**Sandra Nice** - Okay, I have to get my glasses on. One question is what is the road going to be made of? beachum I mean item 4 or is it going to be what do you call that? I call it Beachum.

**Robert Dee** – Okay.

**Sandra Nice** – The road what's going to be on the road?

**Robert Dee** – Mr. Watson what's it going to be made of?

**Sandra Nice** – What's the road going to have?

**Glenn Watson** – (not audible) gravel.

**Stephen Flavin** – (not audible) gravel and grass.

**Sandra Nice** – Gravel, so it's not going to be the stuff that we all don't want? Pavement.

**Stephen Flavin** – (not audible).

**Sandra Nice** - Okay that's the one question and the other is the, when Glenn came and told us about the trees I called two Landscape Architects, people, professionals about the Hemlock because you know all of us who live here know that every practically every Hemlock in our area has died. And it's like the kiss of death. It's the Woolly Adelgid that killed them all and the only reason why we have three or four in a cluster is because we are quite emphatic about spraying them. But if you look a little bit carefully way over here there are six standing. No one down and five standing Hemlocks that are dead. We just leave them there because it's too much money to bring them down and they are fine where they are. So I object to the Hemlock. These two people that I talked to said why not Blue Spruce or Norway Spruce because the deer don't eat them. So we don't need a fence. And then I, what's his name? Glenn said, what's that that's over there? Juniper that's like lollipops to deer. So they suggested two others. One of them is, I can't remember the names I wrote, I forgot... anyway there are some others that the deer don't eat and you don't even need a fence. So, and then the concern is if you do put in the Hemlock then is there some kind of a bond that they really would be sprayed. That's all.

**Robert Dee** – Okay.

**Adam Rodd** – If the applicant were to agree to plant Blue Spruce what would your position be on their application?

**Sandra Nice** – What would what?

**Adam Rodd** – What would be your position on the application if they agreed to substitute Blue Spruce for Hemlock?

**Sandra Nice** – Well, that's a hard question. Because of course I would like to see the road over here coming down here and going like that. You still need this it doesn't matter.

**Robert Dee** – What type of trees would you like to see planted?

**Sandra Nice** – I'm sorry?

**Robert Dee** – What type of trees would you like to see planted?

**Sandra Nice** - Well as I said, what they said. Norway Spruce, Blue Spruce, anything that the deer don't eat. And they grow fast and they are quite attractive. And then of course as Glenn or some Architect said you need to have some coverage here because they all, you know, you go underneath and you see. That's why they suggest Juniper but I'm saying Boxwood or I can't remember what the other ones was but there are others that deer don't eat.

**Robert Dee** – I know you've spoken among yourselves and all like that about, which is good, about what your going to plant there have you come to any kind of agreement?

**Sandra Nice** – Did we come to an agreement?

**Robert Dee** – of anything?

**Sandra Nice** – I don't...

**Daniel Richmond** - We haven't heard a commitment yet from them. I'm hopeful that we will be able to continue these conversations over the next week or so.

**Sandra Nice** – Alright.

**Robert Dee** – Okay, okay. That's good.

**Paula Clair** – I have another question. If you could agree on the trees that you're going to have planted there. If you can agree on the type of trees to be planted you're main objection is the driveway, the way that the driveway goes? So if you, if the, I don't know if it's feasible for them to move it but if it was feasible to move it and they were willing to do that, would that satisfy your concerns?

**Daniel Richmond** - I think together with a bonding requirement for the trees to insure long term liability.

**Robert Dee** – Our Attorney will have to decide at a bonding.

**Paula Clair** – Yeah, right.

**Robert Dee** – I have no... that's s legal question that I don't have the answer to.

**Taylor Palmer** - A Certificate of Occupancy wouldn't be issued until the appropriate screening as agreed to by the Board has been implemented.

**Daniel Richmond** - That could be a year or two. The trees, again it's a damp area and it's recognized by them now as damp.

**Taylor Palmer** - We certainly defer to the ZBA Attorney for that but again there certainly wouldn't be a Certificate of Occupancy issued without the proper screening as agreed to by this Board.

**Daniel Richmond** - It's pretty standard.

**Robert Dee** - That goes to the Attorney, that's an Attorney question.

**Paula Clair** – Right.

**Robert Dee** – Yes, stand up and come up and identify yourself please. You got to speak into that mic yeah.

**Don Nice** – I want to (not audible) to you.

**Robert Dee** – Something else. Sure put it on the pile here.

**Don Nice** - Here you go.

**Robert Dee** - That will give me summer reading.

**Don Nice** - I'm deaf.

**Robert Dee** - That's good okay.

**Lenny Lim** – Don't we need five copies for everybody?

**Robert Dee** – Take the one thing. We'll make five copies.

**Don Nice** – My name is Don Nice and I've, we been a resident here of this community for a number of years and I want to read this letter as a matter of record.

*"To Zoning Board of Appeals*

*My name is Don Nice and along with my wife, Sandra, we own the property adjacent to Mr. Flavin's proposed house. We moved here from New York in 1969 from Brooklyn Heights to live in a scenic country surrounding.*

*I am writing to object to the Flavin proposal to place a new house next to our property line.*

*As this is a question of aesthetic beauty, and I have spent my life as a painter, teacher, Dean of the School of Visual Arts and Vice President of the National Academy of Design, I feel qualified to make a judgment as to the appropriateness of the project.*

*The project, as planned, will have a negative effect on our land, which is registered on the National Register of Historic Places. Enclosed is a copy of the Registry, dated 1980. The Flavin proposed new house itself does not enhance these historic surroundings.*

*There are documentation that the original DeRham Farm, on which our house resides, reflects the historic and social evolution of the lower Hudson River Valley. The land was initially developed by the Davenoport family. Tenant farmers lived in Philipse Upper Manor and it was occupied by the soldiers of the Connecticut Line during the fortification of West Point.*

*Anyone in the future who would wish to acquire our historic house would in fact be deterred about the location and purpose of the Flavin new home.*

*We suggest an alternative that Steve Flavin relocate his house on the upper section of his property next to his own. If this is agreed upon, the new unit would help to keep Philipstown a historic area and one of the more important sections and of the Greenway selected by the Federal Government."*

**Robert Dee** – Okay thank you, is that it? Mr. Nice You can take this back, I'll take the letter you can take this back, because what it is is it tells what your location is historical.

(not audible)

**Don Nice** – (not audible) It's got some adjacent properties.

**Robert Dee** – It's historical but okay.

**Adam Rodd** – Well.

**Robert Dee** – We have that already.

**Adam Rodd** – Leave it as part of the record. He submitted it and it's part of the record.

**Robert Dee** – Make all these copies mail them out please. Thank you. Make all these copies mail them out to the Board I guess please. Thank you.

**Adam Rodd** – Just so the record is clear, there is concern about the location of the driveway and the possibility of re orienting or relocating the driveway, can you speak to those concerns and as to whether for the record it is possible to do that and if it's not or if it's not feasible why not?

**Glenn Watson** – Well first of all I will look at it. My, I have looked at the property, I will look at it on paper, I will look at it in the field again. My observation based on having done this before is that it's too steep and it, there's other issues which would create additional disturbance of the ground, additional run off, additional potential for erosion. It might interfere with the septic system which is shown on this plan. The light lines, if you look carefully you can see that the septic is there. It gives us a very limited short and driveway to get down the steeper part of the hill. That's my reluctance. I'll look at it again. I'm also concerned that by the time you get down there and come at the garage from a direct. Direct from the north, the headlights will go right through the building. I mean through this, through the area.

(not audible)

I think the screen will be effective with the headlights coming down here. I think it will be effective for the headlights coming here but if there's genuine concern for the effectiveness of the screen on the headlights and if were that true and I don't think it is, were that a true observation I don't think it would solve the problem.

**Robert Dee** - Okay thank you. Anybody else have anything to say? Alright. Any questions from the Board?

**Taylor Palmer** – Mr. Chairman if I may, I just want to submit...

**Robert Dee** – Okay sure.

**Taylor Palmer** -...one more item for the record and again the neighbors referenced the historic nature of the DeRham farm, we have submitted a record letter before the Board this evening from Carla Cielo who's from Building Preservation and Design which speaks directly to the adjacent property and the DeRham Farm and it certainly indicates in her letter that the Flavin property as proposed will have no adverse effect on the historic DeRham Farm or mansion and we certainly just want to point that out for the Board.

**Paula Clair** – Who's that from?

**Taylor Palmer** - That's from Carla Cielo she is the applicants historic consultant so that was submitted with the documentation that was provided to the Board this evening. The only other point I wanted to reference to the Board on SEQRA It's specificity SEQRA regulations section 6 whoops 17.5C10 which says that a Type 11 action includes construction, expansion and placement of minor accessory apartment residential structures including garages and there's other details that go for a Type 11 action. But again I want to present that to the Board. And again we appreciate you're time tonight and if you have any questions we're certainly here to address them.

**Robert Dee** – Anybody else have any questions? Yes.

**Daniel Richmond** - Briefly again, I again just to the Type 11. I think there miss-constructing, again the law is pretty clear that you have to fit squarely in a Type 11 otherwise you are considered unlisted. This section deals with if you are an as to right project. Again the fact that you will require Special Permit, the project requires a Special Permit kicks it into an action which subjects it to SEQRA and I would just note even if it were a Type 11 action there is ample case law that doesn't give you carte blanche to ignore as I'm sure this Board is aware environmental issues which I already recognize you're Board is taking fully to heart and is considering very seriously. And we appreciate your time and attention.

**Robert Dee** – Alright, if no one has anything else? I make a motion to adjourn.

**Lenny Lim** – I second it.

**Robert Dee** – All in favor? Aye.

**Vincent Cestone** – Aye.

**Paula Clair** – Aye.

**Lenny Lim** – Aye.

**Robert Dee** - The next meeting will be September 12<sup>th</sup>. Let me just double check.

**Glenn Watson** – The hearing or are you continuing the hearing?

**Robert Dee** – Continuing the hearing.

**Lenny Lim** – Continue.

**Taylor Palmer** – Continue the public hearing.

**Glenn Watson** – I just need a...

**Taylor Palmer** - For the purpose of the record. For the purpose of the record.

**Robert Dee** – I'm sorry for the record. Continue the public hearing. That will be the fourth one. That will be September 12<sup>th</sup>.

**Glenn Watson** - I'm not anxious for it. I just want it to be right.

**Robert Dee** – It will be here again Linda, It will be here again okay to accommodate Mr. Nice. And I'm going to suggest if you can't the Attorneys and you know the neighbors get together try to work it out by that time because you know that is going to be six weeks from now and that will give us ample time to go over this. And the Board's probably going to make a determination on that by that time. So which ever way it goes you know, I don't know which way it's going to go. But I would see no reason after six weeks that we can view all this information and make a determination.

**Daniel Richmond** – Thank you very much Mr. Chair.

**Robert Dee** – Thank you.

**Vincent Cestone** – I make a motion to adjourn.

**Robert Dee** – Oh.

**Lenny Lim** – I second.

**Robert Dee** – All in favor? Aye.

**Vincent Cestone** – Aye.

**Paula Clair** – Aye.

**Lenny Lim** – Aye.

(The meeting adjourned at 8:12 P. M.)

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

**DATE APPROVED:** \_\_\_\_\_

Respectfully submitted,  
Linda Valentino  
Secretary

Garrison on Hudson  
July 25, 2016

To: Zoning Board of Appeals

My name is Don Nice and along with my wife, Sandra, we own the property adjacent to Mr. Flavin's proposed house. We moved here from New York in 1969 from Brooklyn Heights to live in scenic country surrounding.

I am writing to object to the Flavin proposal to place a new house next to our property line.

As this is a question of aesthetic beauty, and I have spent my life as painter, teacher, Dean of the School of Visual Arts and Vice President of the National Academy of Design, I feel qualified to make a judgment as to the appropriateness of the project.

The project, as planned, will have a negative effect on our land, which is registered on the National Register of Historic Places. Enclosed is a copy of this Registry, dated 1980. The Flavin proposed new house itself does not enhance these historic surroundings.

There is documentation that the original de Rham farm, on which our house resides, reflects the historic and social evolution of the lower Hudson River Valley. The land was initially developed by the Davenport family. Tenant farmers lived in Philipse Upper Manor and it was occupied by soldiers of the Connecticut line during the fortification of West Point.

Anyone in the future who would wish to acquire our historic house would in fact be deterred about the location and purpose of the Flavin proposed new house.

We suggest an alternative: that Steve Flavin relocate his house on the upper section of his property next to his own. If this is agreed upon, the new unit would help to keep Philipsetown an historic area and one of the more important sections of the Greenway, selected by the Federal Government.

Respectfully submitted,

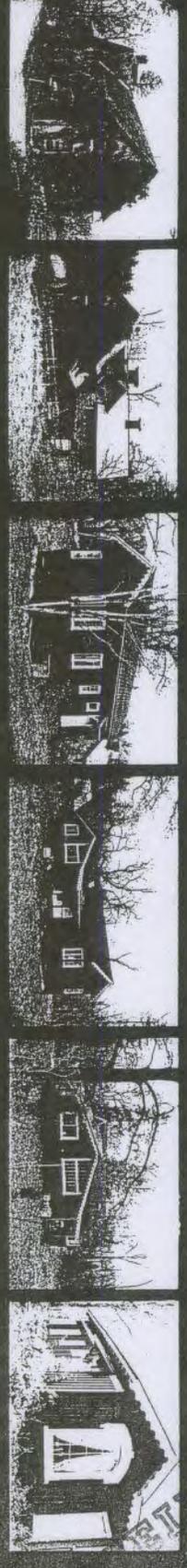
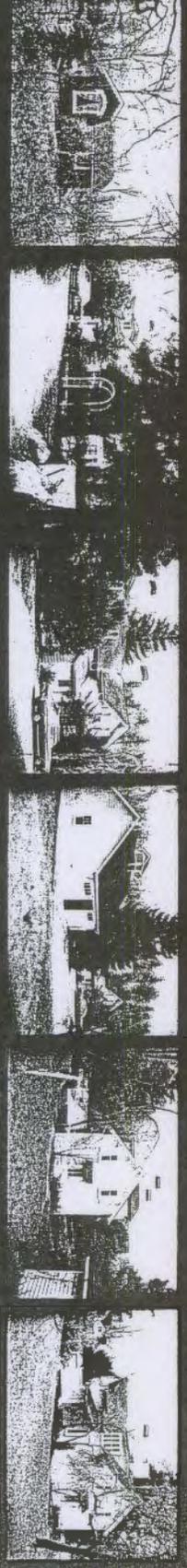
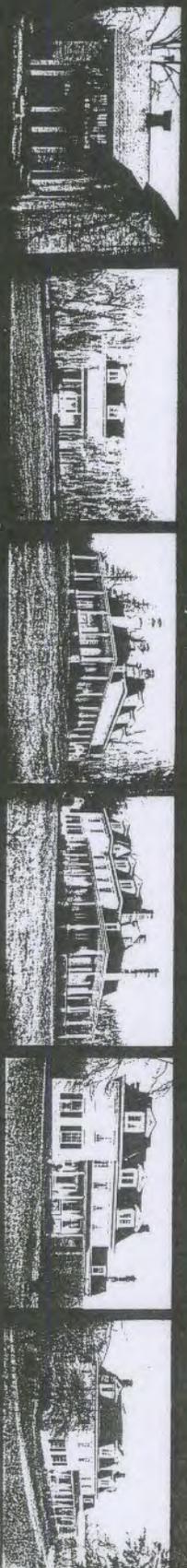
Don Nice

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JUL 25 2016  
BY: 

EXHIBIT # 35



SAFETY FILM 5080





~~(518) 438-2166~~

NEW YORK STATE PARKS AND RECREATION  
DIVISION FOR HISTORIC PRESERVATION

This is to certify that

*DeRham Farm*

*Garrison Vicinity, Putnam County*  
in recognition of its

*Historical and Architectural*

*significance and to encourage its preservation*

*was listed on the*

NATIONAL REGISTER OF HISTORIC PLACES

by the

UNITED STATES DEPARTMENT OF THE INTERIOR

upon nomination by the State Historic Preservation Officer

under provisions of the National Historic Preservation

Act of 1966.

*Aerin Lehman*

COMMISSIONER, NEW YORK STATE PARKS AND RECREATION  
STATE HISTORIC PRESERVATION OFFICER

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JUL 25 2016  
BY: *R*

*28 March 1980*



EXHIBIT # 35b

de RHAM FARM

The history of the de Rham Farm reflects the historic and social evolution of the lower Hudson River Valley, and the architectural evolution of the mansion house represents a progression from Federal to Classic Revival and late nineteenth century Eclectic building styles. The land was initially developed by the Davenport family, tenant farmers in Philipse Upper Manor, and occupied by soldiers of the Connecticut Line during the fortification of West Point. In the early nineteenth century, the main house served briefly as a boarding school before banker Henry C. de Rham bought the property in 1834. His heirs owned the land for over a century. (The de Rham Farm became one of the first summer houses along the Hudson and, with its many nineteenth century outbuildings, it remains one of the best preserved today.) >

(Historical and Architectural)

PERIOD

AREAS OF SIGNIFICANCE -- CHECK AND JUSTIFY BELOW

<input type="checkbox"/> PREHISTORIC	<input type="checkbox"/> ARCHEOLOGY-PREHISTORIC	<input type="checkbox"/> COMMUNITY PLANNING	<input type="checkbox"/> LANDSCAPE ARCHITECTURE	<input type="checkbox"/> RELIGION
<input type="checkbox"/> 1400-1499	<input type="checkbox"/> ARCHEOLOGY-HISTORIC	<input type="checkbox"/> CONSERVATION	<input type="checkbox"/> LAW	<input type="checkbox"/> SCIENCE
<input type="checkbox"/> 1500-1599	<input checked="" type="checkbox"/> AGRICULTURE	<input type="checkbox"/> ECONOMICS	<input type="checkbox"/> LITERATURE	<input type="checkbox"/> SCULPTURE
<input type="checkbox"/> 1600-1699	<input checked="" type="checkbox"/> ARCHITECTURE	<input type="checkbox"/> EDUCATION	<input type="checkbox"/> MILITARY	<input type="checkbox"/> SOCIAL/HUMANITARIAN
<input type="checkbox"/> 1700-1799	<input type="checkbox"/> ART	<input type="checkbox"/> ENGINEERING	<input type="checkbox"/> MUSIC	<input type="checkbox"/> THEATER
<input checked="" type="checkbox"/> 1800-1899	<input type="checkbox"/> COMMERCE	<input type="checkbox"/> EXPLORATION/SETTLEMENT	<input type="checkbox"/> PHILOSOPHY	<input type="checkbox"/> TRANSPORTATION
<input type="checkbox"/> 1900-	<input type="checkbox"/> COMMUNICATIONS	<input type="checkbox"/> INDUSTRY	<input type="checkbox"/> POLITICS/GOVERNMENT	<input type="checkbox"/> OTHER (SPECIFY)
		<input type="checkbox"/> INVENTION		

SPECIFIC DATES c.1810

BUILDER/ARCHITECT

STATEMENT OF SIGNIFICANCE

The DeRham Farm is significant because of its illustration of the historic and social development of the area and because it well represents the design characteristics of a nineteenth-century gentleman's farm as it evolved over time.

The land on which the farm stands was part of the Philipse Upper Manor (or Highland Patent), which was held by the Philipse family throughout the eighteenth century. The property was managed under the tenant/landlord system where the tenant developed and farmed the land and paid rent, usually in goods and services, to the landlord who held title to the property. In 1751, the Upper Manor passed from Frederick Philipse (1698-1751) to his younger children Philip (1724-1768), Susannah, (1727-1822), Mary (1730-1825) and Margaret (1733-1752). Margaret died without leaving a will, and her share of the land was divided between her brother and her sisters. The patent was partitioned into nine sections with three bordering the Hudson River, three bordering the New York/Connecticut boundary and three in between. The land that included what became the DeRham Farm was part of Water Lot No. 2 and went to Philip Philipse. During the American Revolution, the Philipse family sided with the Loyalists, and their land was confiscated. The only part that was not sold at auction was that land that had belonged to Philip Philipse, who had died in 1768; his heirs did not fall under the Loyalist ban. Around 1800, Philip's son, Frederick, and Frederick's daughter and son-in-law, Mary and Samuel Gouverneur, moved to a newly built residence on Water Lot No. 2. At that time, Philipse sold some of the farms on his property, but the DeRham Farm site remained in his possession until 1827.

The tenant farm was first developed by Thomas Davenport (1682-1759), who, sometime between 1714 and 1732, became one of the first tenants in the western section of the Highland Patent. He was succeeded in farming by his sons Thomas (c.1716-1797) and William (1718-?); a 1768 map shows Water Lot No. 2 with Thomas leasing the land north of Indian Brook and his brother holding the farm to the north of his. Although Thomas II appears to have been a prosperous leaseholder who owned four slaves when he died, he apparently lived in a log house near Indian Brook from the beginning of his tenancy about 1740 until his death. The exact site of that house is unknown.

Between 1800 and 1810, many of the tenants who had lived on Water Lot No. 2 left, either after they sold the improvements on their land to other tenants or after Frederick Philipse did not renew their leases. Thomas Davenport II's son William, who had inherited the leasehold on Indian Brook, was one of the tenants

*DeRham Farm*

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# NATIONAL REGISTER OF HISTORIC PLACES INVENTORY -- NOMINATION FORM

DeRham Farm, Town of Philipstown, Putnam County, New York  
CONTINUATION SHEET                      ITEM NUMBER 8                      PAGE 2

who left the area. According to "Thomas Davenport (and his Descendants), Philipstown Pioneer, 1682-1759," the land was purchased about 1802 by a man named Wheelock. However, a deed shows that the land was not purchased from the Philipse family until 1827 when Frederick and Maria Philipse sold it to Thompson B. Wheelock's wife Margaret for one dollar. The land might easily have been occupied by the Wheelocks about 1802, because the house dates stylistically from that period and documentation shows that it was built prior to the formal sale of the property. The earliest decorative features in the residence are clearly Federal in style, and in 1826, the land was surveyed by T. Lent, and a map entitled "Lieut. Wheelock's Grange, called Frederica" was drawn. The map shows the main house and what appears to be a shed, residence and small barn on the present sites of the shed, caretaker's cottage and caretaker's barn, respectively. The main house is shown as a south-facing, two-story residence with a hipped roof and an arched entrance in the right-hand bay of the three-bay facade. A one-story porch is located on the west elevation and a one-story wing is on the east elevation.

In 1830, the Wheelocks sold the property to Adolphus E. Watson, John L. Watson and Charles Beck for \$6900. The following year, Beck sold his share to the Watsons for \$2000. Adolphus was apparently the Alfred Eugene Watson (1800-1876) who was a vestryman at St. Philip's Church in 1834. A graduate of Harvard, he and his brother John Lee Watson (1797-1884) operated the Highland School from 1830 to 1835. The school, housed in the Wheelock's residence, had 35 students and four teachers in 1834. During this time, the house was probably enlarged; there is no documentation to substantiate this, but the main house and accompanying tenant house could not have accommodated 39 people. The school closed when the older Watson, also a Harvard graduate, entered the ministry. The land was sold in 1834 to Henry C. DeRham for \$11,000.

Henry Casimir DeRham (1785-1874), the son of Johann W. DeRham and the grandson of Sir James Kinlock of Gilmerton, Scotland, was born in Giez, Switzerland and emigrated to America about 1806. A successful merchant and banker in New York City, he purchased the Watson's school, named it after his Swiss birthplace, and used it as a summer home. After his death, the farm passed to his son Charles DeRham (1822-1909). It remained in the family until 1949, when the farm was divided and sold in small parcels. Currently, the main house, carriage house, orchard house and caretaker's cottage all have different owners.

The DeRhams were responsible for most or all of the major nineteenth-century renovations that were made to the house. Before a photograph was made of the house in 1853 or 1858, substantial changes had been made. The one-story wing

*DeRham Farm*

UNITED STATES DEPARTMENT OF THE INTERIOR  
HERITAGE CONSERVATION AND RECREATION SERVICE

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NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM

DeRham Farm, Town of Philipstown, Putnam County, New York

CONTINUATION SHEET

ITEM NUMBER 8 PAGE 3

on the east end had been enlarged to two and a half stories and a gabled roof extended over the original three-bay main section and this addition. The photograph also showed that a one-story, flat-roofed addition was made to the west end and that a classical-style porch extended across the south elevation of these two sections and then around to the west elevation. A two-story, flat-roofed wing on the east elevation and a cupola and widow's walk on the main gabled roof (both since removed) were added. Which of these alterations and additions were made by the Watsons to accommodate their school and which were made by the DeRhams has not been determined. Sometime after 1864, the main part of the house received a mansard roof with pedimented gabled dormers. Another renovation effort, made prior to 1893, added mansard roofs to the west and east wings; a mansarded tower with Stick Style trim was constructed just east of the main section. After the DeRhams sold the property, the entire east wing and tower were removed.

The major support structures for the DeRham Farm all date from the nineteenth century. The caretaker's cottage and its barn appear on the 1826 survey map. The orchard house, the small Gothic Revival cottage that was used in 1860 by the DeRhams as a photographic studio, and the Romanesque carriage house all date from after the DeRham purchase of the property. The complex is an excellent and intact example of a nineteenth-century summer residence and compound belonging to a wealthy New York City family. As it was constructed by the Wheelocks early in the century, the house, though small, had the latest Federal-style features. In the 1830's, it was probably enlarged simply to house the Highland School, but each subsequent renovation involved well-designed features intended to update the showcase residence.

Although the several buildings now have different owners and the acreage of the farm has been diminished, the location of the farm buildings remains intact as it was throughout the nineteenth century. The main house is one of the oldest and most substantial residences in this section of Putnam County.

DeRham Farm

## CONDITION

## CHECK ONE

## CHECK ONE

 EXCELLENT DETERIORATED UNALTERED ORIGINAL SITE GOOD RUINS ALTERED MOVED

DATE \_\_\_\_\_

 FAIR UNEXPOSED

## DESCRIBE THE PRESENT AND ORIGINAL (IF KNOWN) PHYSICAL APPEARANCE

The DeRham Farm complex is located near Garrison in the town of Philipstown; it is about fifty miles north of New York City. Constitution Island is immediately to the west, and the U.S. Military Academy at West Point is on the opposite side of the Hudson River. Indian Brook Road, a narrow, dirt road, winds through the site which lies between Route 9D and the Hudson River.

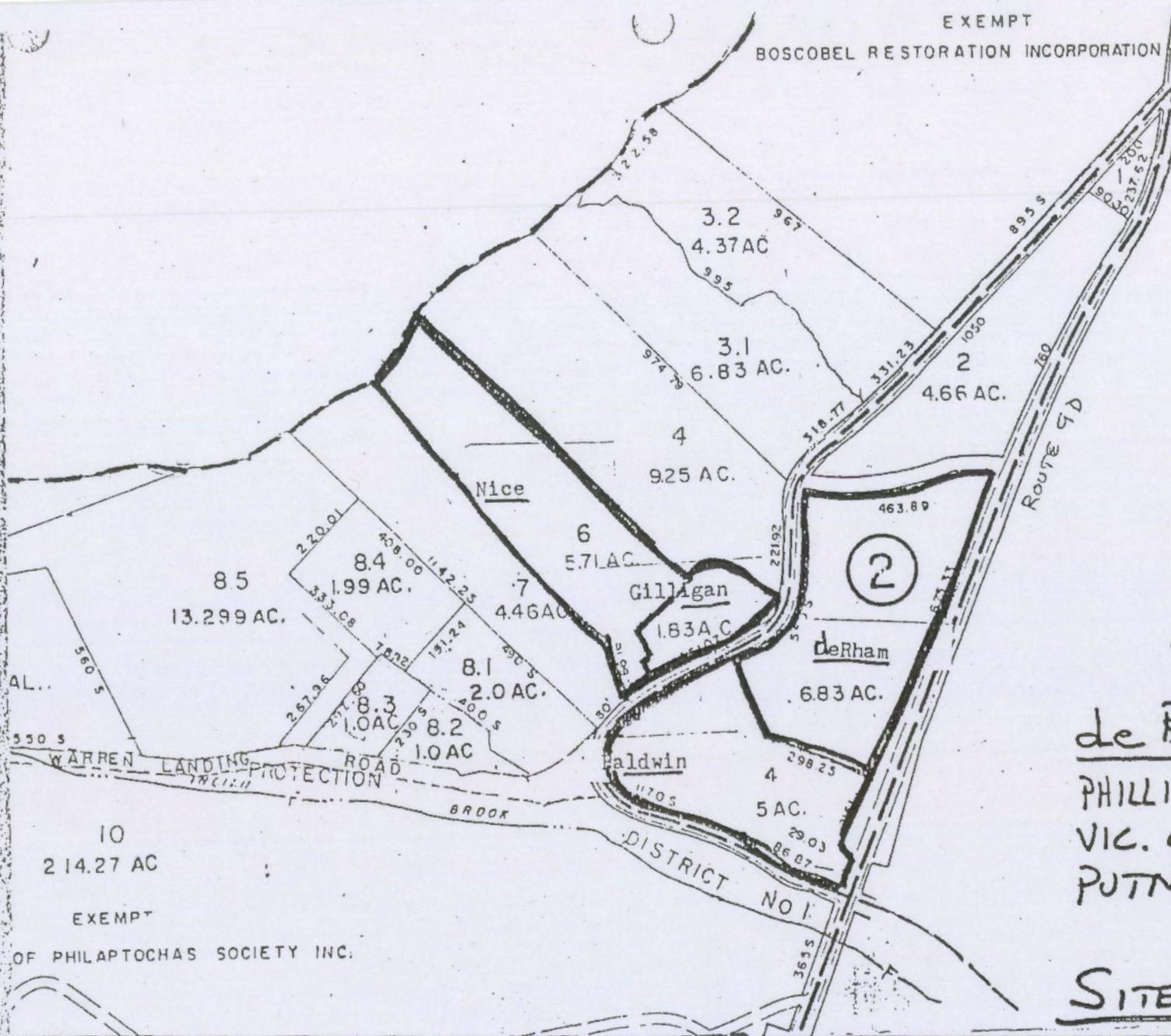
The farm complex is now comprised of four separate parcels. The main building is a two-and-a-half story residence that has its facade on the south elevation; a large veranda with Tuscan columns extends across the entire south and west elevations and across part of the north elevation (Photos #1-4). The building was originally built in the Federal style, and the main entrance has an elliptical fanlight with keystone and tracery, pilasters with architrave trim and sidelights (Photo #5). The windows have 6/6 lights with thin muntins. The residence experienced three major remodelling efforts during the nineteenth century. The first one added the Greek Revival porch and the west wing with its French doors. The second and third alterations added the mansard roofs and pedimented gabled dormers. (The final alteration also added a mansard roof and tower to the east wing; that entire section of the building was demolished about 1950.) The first floor of the interior has a Colonial Revival, wainscotted, central hallway (Photo #6) with two rooms on the west side and one large and two small rooms on the east. The doorway to the southwest room has the same trim that is found on the outside of the main entrance (Photo #8). The southeast room has a carved Adamesque mantel (Photo #7); the southwest and northwest rooms have white marble mantels. The one-story wing on the west elevation has a wooden mantel. On the main part of the house, the second and third stories have five and six rooms respectively; the sixth room on the second story has been converted into a bathroom.

To the east of the main house, on the west side of Indian Brook Road, are a board and batten cottage (Photo #11) and a brick carriage house (Photo #12). This T-shaped, one-and-a-half story carriage house has two square cupolas with pyramidal roofs. Second-story windows have round Romanesque arches and 6/6 lights; the stable doors and first-story 6/6 windows have brick relieving arches. There are gable ends on the north, south and west elevations; the east elevation has a cross gable. The interior has been converted to residential use, but the floorplan remains essentially unchanged; almost all of the spaces remain open with the original structural system exposed. Brick and plaster walls have been retained; the second floor has its original floor boards. The one-story, board and batten cottage is built in two sections; both of them have low-pitched gabled roofs with scalloped bargeboard trim. Its east elevation has an eight-paned arched window with an elaborate label and keystone.

East of the carriage house, across the road, is the one-and-a-half story, nineteenth-century clapboard caretaker's cottage (Photo #13). The T-shaped building has gable windows that are either clipped at the top corners or are double, narrow and arched. First-story windows have 6/6 or 4/4 lights. The interior has its original wide board flooring and simple woodwork. The only modern alteration is the screened porch.

DeRham Farm

EXEMPT  
BOSCOBEL RESTORATION INCORPORATION



43

de Rham Farm  
PHILLIPSTOWN  
VIC. OF GARRISON  
PUTNAM CO.

SITE PLAN

EXEMPT  
OF PHILAPTOCHAS SOCIETY INC.

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**NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM**

DeRham Farm, Town of Philipstown, Putnam County, New York

CONTINUATION SHEET

ITEM NUMBER 7

PAGE 3

Key to map:

- 1. Mansion house
- 2. Shed
- 3. Playhouse
- 4. Photographic studio
- 5. Carriage house
- 6. Caretaker's cottage
- 7. Greenhouse
- 8. Greenhouse
- 9. Barn ruin
- 10. Root cellar
- 11. Water tower
- 12. Barn
- 13. Well house
- 14. Orchard house
- 15. Orchard house garage

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BY: .....

EXHIBIT # 35d

DeRham Farm



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# NATIONAL REGISTER OF HISTORIC PLACES INVENTORY -- NOMINATION FORM

SEE INSTRUCTIONS IN HOW TO COMPLETE NATIONAL REGISTER FORMS  
TYPE ALL ENTRIES -- COMPLETE APPLICABLE SECTIONS

## 1 NAME

HISTORIC  
DeRham Farm  
AND/OR COMMON  
same

2/28/11/16

## 2 LOCATION

STREET & NUMBER  
Indian Brook Road

NOT FOR PUBLICATION

CITY, TOWN  
Garrison

VICINITY OF

CONGRESSIONAL DISTRICT  
25th

STATE  
New York

CODE  
036

COUNTY  
Putnam

CODE  
079

#445

## 3 CLASSIFICATION

CATEGORY	OWNERSHIP	STATUS	PRESENT USE
<input type="checkbox"/> DISTRICT	<input type="checkbox"/> PUBLIC	<input checked="" type="checkbox"/> OCCUPIED	<input type="checkbox"/> AGRICULTURE
<input checked="" type="checkbox"/> BUILDING(S)	<input checked="" type="checkbox"/> PRIVATE	<input type="checkbox"/> UNOCCUPIED	<input type="checkbox"/> COMMERCIAL
<input type="checkbox"/> STRUCTURE	<input type="checkbox"/> BOTH	<input type="checkbox"/> WORK IN PROGRESS	<input type="checkbox"/> EDUCATIONAL
<input type="checkbox"/> SITE	<input type="checkbox"/> PUBLIC ACQUISITION	<input type="checkbox"/> ACCESSIBLE	<input checked="" type="checkbox"/> PRIVATE RESIDENCE
<input type="checkbox"/> OBJECT	<input type="checkbox"/> IN PROCESS	<input checked="" type="checkbox"/> YES: RESTRICTED	<input type="checkbox"/> ENTERTAINMENT
	<input type="checkbox"/> BEING CONSIDERED	<input type="checkbox"/> YES: UNRESTRICTED	<input type="checkbox"/> GOVERNMENT
		<input type="checkbox"/> NO	<input type="checkbox"/> INDUSTRIAL
			<input type="checkbox"/> MILITARY
			<input type="checkbox"/> MUSEUM
			<input type="checkbox"/> PARK
			<input type="checkbox"/> RELIGIOUS
			<input type="checkbox"/> SCIENTIFIC
			<input type="checkbox"/> TRANSPORTATION
			<input type="checkbox"/> OTHER

## 4 OWNER OF PROPERTY

NAME  
Multiple ownership. See Continuation Sheet

STREET & NUMBER

CITY, TOWN

VICINITY OF

STATE

## 5 LOCATION OF LEGAL DESCRIPTION

COURTHOUSE...  
REGISTRY OF DEEDS, ETC. Putnam County Courthouse

STREET & NUMBER  
Gleneida Avenue

CITY, TOWN  
Carmel

STATE  
New York

## 6 REPRESENTATION IN EXISTING SURVEYS

TITLE  
Historic Resources of the Hudson

DATE  
January 1969

FEDERAL  STATE  COUNTY  LOCAL

DEPOSITORY FOR  
SURVEY RECORDS N.Y.S. Office

Parks and Recreation, Division for Historic Preservation

CITY, TOWN  
Albany

STATE  
New York

EXHIBIT # 354

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T. Robins Brown, "Brief Chronology of the History of the Wheelock-DeRham House, Garrison, Philipstown, Putnam County, New York." Unpubl., 197

Chorley, Edward C. History of St. Philip's Church in the Highlands, Garrison, New York. New York: E. S. Gorham, 1912.

## 10 GEOGRAPHICAL DATA

ACREAGE OF NOMINATED PROPERTY 19.37 acres

UTM REFERENCES

A	1,8	58,86,7,0	4,58,40,2,0	B	1,8	58,89,6,0	4,58,41,1,0
	ZONE	EASTING	NORTHING		ZONE	EASTING	NORTHING
C	1,8	58,89,7,0	4,58,41,5,0	D	1,8	58,90,4,0	4,58,41,9,0
	ZONE	EASTING	NORTHING		ZONE	EASTING	NORTHING

VERBAL BOUNDARY DESCRIPTION

The DeRham Farm nomination is comprised of four individual parcels which make up a portion of the original DeRham Farm. For detailed boundary descriptions see attached survey and tax maps.

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE	CODE	COUNTY	CODE
STATE	CODE	COUNTY	CODE

## 11 FORM PREPARED BY

NAME/TITLE Jessica Kemm and L. Corwin Sharp, Historic Architecture and Decorative Arts Consultants, Hurley, N.Y. Edited by Larry Gobrecht, Natl. Register & Survey Coordinator

ORGANIZATION N.Y.S. Office for Parks & Recreation, Division for Historic-Preservation

DATE November 30, 1979

STREET & NUMBER Empire State Plaza, Agency Building 1

TELEPHONE 518-474-0479

CITY OR TOWN Albany

STATE New York

## 12 STATE HISTORIC PRESERVATION OFFICER CERTIFICATION

THE EVALUATED SIGNIFICANCE OF THIS PROPERTY WITHIN THE STATE IS:

NATIONAL

STATE

LOCAL

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service.

STATE HISTORIC PRESERVATION OFFICER SIGNATURE

TITLE Director, Historic Preservation Field Service Bureau DATE 1/9/80

OR NPS USE ONLY

I HEREBY CERTIFY THAT THIS PROPERTY IS INCLUDED IN THE NATIONAL REGISTER

DATE

DIRECTOR, OFFICE OF ARCHEOLOGY AND HISTORIC PRESERVATION

EST:

DATE

KEEPER OF THE NATIONAL REGISTER

DESCRIPTION

CONDITION		CHECK ONE	CHECK ONE
<input type="checkbox"/> EXCELLENT	<input type="checkbox"/> DETERIORATED	<input type="checkbox"/> UNALTERED	<input type="checkbox"/> ORIGINAL SITE
<input checked="" type="checkbox"/> GOOD	<input type="checkbox"/> RUINS	<input checked="" type="checkbox"/> ALTERED	<input type="checkbox"/> MOVED DATE _____
<input type="checkbox"/> FAIR	<input type="checkbox"/> UNEXPOSED		

DESCRIBE THE PRESENT AND ORIGINAL (IF KNOWN) PHYSICAL APPEARANCE

The DeRham Farm complex is located near Garrison in the town of Philipstown; it is about fifty miles north of New York City. Constitution Island is immediately to the west, and the U.S. Military Academy at West Point is on the opposite side of the Hudson River. Indian Brook Road, a narrow, dirt road, winds through the site which lies between Route 9D and the Hudson River.

The farm complex is now comprised of four separate parcels. The main building is a two-and-a-half story residence that has its facade on the south elevation; a large veranda with Tuscan columns extends across the entire south and west elevations and across part of the north elevation (Photos #1-4). The building was originally built in the Federal style, and the main entrance has an elliptical fanlight with keystone and tracery, pilasters with architrave trim and sidelights (Photo #5). The windows have 6/6 lights with thin muntins. The residence experienced three major remodelling efforts during the nineteenth century. The first one added the Greek Revival porch and the west wing with its French doors. The second and third alterations added the mansard roofs and pedimented gabled dormers. (The final alteration also added a mansard roof and tower to the east wing; that entire section of the building was demolished about 1950.) The first floor of the interior has a Colonial Revival, wainscotted, central hallway (Photo #6) with two rooms on the west side and one large and two small rooms on the east. The doorway to the southwest room has the same trim that is found on the outside of the main entrance (Photo #8). The southeast room has a carved Adamesque mantel (Photo #7); the southwest and northwest rooms have white marble mantels. The one-story wing on the west elevation has a wooden mantel. On the main part of the house, the second and third stories have five and six rooms respectively; the sixth room on the second story has been converted into a bathroom.

To the east of the main house, on the west side of Indian Brook Road, are a board and batten cottage (Photo #11) and a brick carriage house (Photo #12). This T-shaped, one-and-a-half story carriage house has two square cupolas with pyramidal roofs. Second-story windows have round Romanesque arches and 6/6 lights; the stable doors and first-story 6/6 windows have brick relieving arches. There are gable ends on the north, south and west elevations; the east elevation has a cross gable. The interior has been converted to residential use, but the floorplan remains essentially unchanged; almost all of the spaces remain open with the original structural system exposed. Brick and plaster walls have been retained; the second floor has its original floor boards. The one-story, board and batten cottage is built in two sections; both of them have low-pitched gabled roofs with scalloped bargeboard trim. Its east elevation has an eight-paned arched window with an elaborate label and keystone.

East of the carriage house, across the road, is the one-and-a-half story, nineteenth-century clapboard caretaker's cottage (Photo #13). The T-shaped building has gable windows that are either clipped at the top corners or are double, narrow and arched. First-story windows have 6/6 or 4/4 lights. The interior has its original wide board flooring and simple woodwork. The only modern alteration is the screened porch.

DeRham Farm

HR-8-300A  
(11/78)

UNITED STATES DEPARTMENT OF THE INTERIOR  
HERITAGE CONSERVATION AND RECREATION SERVICE

FOR HCRS USE ONLY

RECEIVED

DATE ENTERED

**NATIONAL REGISTER OF HISTORIC PLACES  
INVENTORY -- NOMINATION FORM**

DeRham Farm, Town of Philipstown, Putnam County, New York

CONTINUATION SHEET

ITEM NUMBER 7 PAGE 2

North of the caretaker's cottage is the orchard house, a one-and-a-half story, nineteenth-century, clapboard residence (Photo #21). It sits on a rock ledge, and the facade of the house has hipped dormers and a central projecting gable with canopy over the entrance. Most of the dormers and gables have narrow, arched, double windows. The house was enlarged in 1929, when it was remodelled by architect Richard H. Dana, Jr., and a substantial, but sympathetically designed, rear extension was made.

In addition to these auxilliary buildings, other support structures include a playhouse (Photo #10) and a nineteenth-century shed with a large arched opening (Photo #9) near the main house, a well house (Photo #20) and garage (Photo #22) near the orchard house, and a barn (Photo #19), water tower (Photo #18), root cellar (Photo #17), and two greenhouses (Photos #14-15) near the caretaker's cottage. (See site map.)

DeRham Farm

**FLAVIN ACCESSORY STRUCTURE  
AND  
ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
JULY 25, 2016**

Prepared by  
**BADEY & WATSON,**  
*Surveying & Engineering, PC*  
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Cold Spring, NY 10516  
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**RECEIVED**  
JUL 25 2016  
R

BY: .....  
EXHIBIT # 32

**FLAVIN ACCESSORY STRUCTURE  
AND  
ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
PART ONE  
JULY 25, 2016**

**Full Environmental Assessment Form  
Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Sponsor Information.**

Name of Action or Project: Approval of Special Permit for Stephen Flavin for Accessory Building w/Accessory Apartment		
Project Location (describe, and attach a general location map): 51 Indian Brook Road, Garrison NY. (opp. Intersection with Beverly Warren Road) TM 49.-1-17		
Brief Description of Proposed Action (include purpose or need): Stephen Flavin has applied to the Philipstown ZBA for a Special Permit to construct an accessory building containing an accessory apartment. Because Mr. Flavin's land is non-conforming, he must obtain a Special Use permit for the apartment, a use that is "as of right" for conforming lots. The land is legally non-conforming and was rendered as such by the enactment of the current zoning law. The non-conforming land area is 9.2+/- acres instead of the 10 acres required by the zoning law. Mr. Flavin's need for this apartment is to house an aging relative. The action contemplated is the approval of the Special Permit.		
Name of Applicant/Sponsor: Stephen C Flavin	Telephone: 845-265-2728	E-Mail: sflavin@icloud.com
Address: 51 Indian Brook Road		
City/PO: Garrison	State: NY	Zip Code: 10524
Project Contact (if not same as sponsor, give name and title/role): Stephen C Flavin	Telephone: 845-265-2728	E-Mail: sflavin@icloud.com
Address: 51 Indian Brook Road		
City/PO: Garrison	State: NY	Zip Code: 10524
Property Owner (if not same as sponsor): Same	Telephone:	E-Mail:
Address:		
City/PO:	State:	Zip Code:

**B. Government Approvals**

**B. Government Approvals Funding, or Sponsorship.** ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Planning Board or Commission		
c. City Council, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals	ZBA - Special Permit	04/22/2016
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Put. Cnty Health - Septic & Water	06/24/2016
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Putnam County Planning (239)	07/22/2016
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes,		
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**C. Planning and Zoning**

**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?  Yes  No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?  Yes  No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?  Yes  No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)  Yes  No

If Yes, identify the plan(s):

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c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?  Yes  No

If Yes, identify the plan(s):

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**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance.  Yes  No

If Yes, what is the zoning classification(s) including any applicable overlay district?

RC - Rural Conservation Zone which is, essentially, a residential zone with a 10 acre minimum lot area requirement

b. Is the use permitted or allowed by a special or conditional use permit?  Yes  No

c. Is a zoning change requested as part of the proposed action?  Yes  No

If Yes,

i. What is the proposed new zoning for the site? \_\_\_\_\_

**C.4. Existing community services.**

a. In what school district is the project site located? Garrison UFSD

b. What police or other public protection forces serve the project site?  
NY State Police, Putnam County Sherriff's Department

c. Which fire protection and emergency medical services serve the project site?  
Garrison Fire District

d. What parks serve the project site?  
Philipstown Park, Philipstown Recreation Center

**D. Project Details**

**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

Single Family Residential accessory apartment

b. a. Total acreage of the site of the proposed action? 9.200 acres

b. Total acreage to be physically disturbed? 0.560 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 9.200 acres

c. Is the proposed action an expansion of an existing project or use?  Yes  No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % 32 Units: 1 accessory apartm't

d. Is the proposed action a subdivision, or does it include a subdivision?  Yes  No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed?  Yes  No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will proposed action be constructed in multiple phases?  Yes  No

i. If No, anticipated period of construction: 6 months

ii. If Yes:

- Total number of phases anticipated \_\_\_\_\_
- Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year
- Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

f. Does the project include new residential uses?  Yes  No

If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	1			
At completion of all phases	1			

g. Does the proposed action include new non-residential construction (including expansions)?  Yes  No

If Yes,

- i. Total number of structures \_\_\_\_\_
- ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length
- iii. Approximate extent of building space to be heated or cooled: \_\_\_\_\_ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?  Yes  No

If Yes,

- i. Purpose of the impoundment: \_\_\_\_\_
- ii. If a water impoundment, the principal source of the water:  Ground water  Surface water streams  Other specify: \_\_\_\_\_
- iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_
- iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres
- v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length
- vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)  Yes  No

If Yes:

- i. What is the purpose of the excavation or dredging? \_\_\_\_\_
- ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
  - Volume (specify tons or cubic yards): \_\_\_\_\_
  - Over what duration of time? \_\_\_\_\_
- iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. \_\_\_\_\_
- iv. Will there be onsite dewatering or processing of excavated materials?  Yes  No  
If yes, describe. \_\_\_\_\_
- v. What is the total area to be dredged or excavated? \_\_\_\_\_ acres
- vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ acres
- vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ feet
- viii. Will the excavation require blasting?  Yes  No
- ix. Summarize site reclamation goals and plan: \_\_\_\_\_

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?  Yes  No

If Yes:

- i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iii. Will proposed action cause or result in disturbance to bottom sediments?  Yes  No

If Yes, describe: \_\_\_\_\_

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation?  Yes  No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?  Yes  No

If Yes:

i. Total anticipated water usage/demand per day: 100 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?  Yes  No

If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No
- Do existing lines serve the project site?  Yes  No

iii. Will line extension within an existing district be necessary to supply the project?  Yes  No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_

- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?  Yes  No

If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_  
Existing well on Flavin property will be used.

vi. If water supply will be from wells (public or private), maximum pumping capacity: 5 gallons/minute.

d. Will the proposed action generate liquid wastes?  Yes  No

If Yes:

i. Total anticipated liquid waste generation per day: 100 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): Sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities?  Yes  No

If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No

- Do existing sewer lines serve the project site?  Yes  No
- Will line extension within an existing district be necessary to serve the project?  Yes  No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_

- iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No

If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- What is the receiving water for the wastewater discharge? \_\_\_\_\_

- v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):  
 Sanitary Wastewater will be treated in an on site Separate Sewage Treatment System (SSTS) approved by and \_\_\_\_\_  
 permitted by the Putnam County Department of Health.

- vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_  
 None other than the SSTS

- e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction?  Yes  No

If Yes:

- i. How much impervious surface will the project create in relation to total size of project parcel?

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (impervious surface)

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (parcel size)

- ii. Describe types of new point sources. \_\_\_\_\_

- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

- If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_

- Will stormwater runoff flow to adjacent properties?  Yes  No

- iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?  Yes  No

- f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations?  Yes  No

If Yes, identify:

- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

- g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit?  Yes  No

If Yes:

- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year)  Yes  No

- ii. In addition to emissions as calculated in the application, the project will generate:

- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)
- \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)
- \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?  Yes  No

If Yes:

- i. Estimate methane generation in tons/year (metric): \_\_\_\_\_
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?  Yes  No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?  Yes  No

If Yes:

- i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_
- ii. For commercial activities only, projected number of semi-trailer truck trips/day: \_\_\_\_\_
- iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_
- iv. Does the proposed action include any shared use parking?  Yes  No
- v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site?  Yes  No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?  Yes  No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes?  Yes  No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?  Yes  No

If Yes:

- i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_
- ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): \_\_\_\_\_
- iii. Will the proposed action require a new, or an upgrade to, an existing substation?  Yes  No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 8:00 am to 4:30 pm
- Saturday: \_\_\_\_\_ to \_\_\_\_\_
- Sunday: \_\_\_\_\_ to \_\_\_\_\_
- Holidays: \_\_\_\_\_ to \_\_\_\_\_

ii. During Operations:

- Monday - Friday: \_\_\_\_\_ to \_\_\_\_\_
- Saturday: \_\_\_\_\_ to \_\_\_\_\_
- Sunday: \_\_\_\_\_ to \_\_\_\_\_
- Holidays: \_\_\_\_\_ to \_\_\_\_\_

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?  Yes  No

If yes:

i. Provide details including sources, time of day and duration:  
Noises associated with small residential construction will be limited to hours of operation stated above. Noises are expected from construction equipment (backhoe, etc.) and tools (saws, hammers, nail guns, etc.)

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen?  Yes  No  
 Describe: \_\_\_\_\_

---

n. Will the proposed action have outdoor lighting?  Yes  No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:  
Resid' lighting adjacent to entry doors placed approximately 6 feet above door sills. Light from fixtures will be shielded & directed downward. Nearest occupied structure is on site approx'ly 140', nearest neighbor is approx'ly 225' away.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?  Yes  No  
 Describe: Applicant's plan includes new landscaping that will act as a visual & light barrier.

---

o. Does the proposed action have the potential to produce odors for more than one hour per day?  Yes  No  
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: \_\_\_\_\_

---

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products (185 gallons in above ground storage or any amount in underground storage)?  Yes  No

If Yes:

i. Product(s) to be stored \_\_\_\_\_

ii. Volume(s) \_\_\_\_\_ per unit time \_\_\_\_\_ (e.g., month, year)

iii. Generally describe proposed storage facilities: \_\_\_\_\_

---

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?  Yes  No

If Yes:

i. Describe proposed treatment(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

ii. Will the proposed action use Integrated Pest Management Practices?  Yes  No

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)
- Operation : \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

s. Does the proposed action include construction or modification of a solid waste management facility?  Yes  No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?  Yes  No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?  Yes  No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

**E. Site and Setting of Proposed Action**

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Aquatic  Other (specify): \_\_\_\_\_

ii. If mix of uses, generally describe:

Residential Lots in the area are generally larger than suburban lots, but may not be large enough to qualify as rural.  
 Lots in the area range in size from about 1 acre to more than 10 acres.

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.220	0.320	.10
• Forested	5.800	5.860	.06
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	1.960	1.760	-0.20
• Agricultural (includes active orchards, field, greenhouse etc.)	0.000	0.000	0.0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.000	0.000	0.0
• Wetlands (freshwater or tidal)	0.000	0.000	0.0
• Non-vegetated (bare rock, earth or fill)	0.690	0.690	0.0
• Other Describe: Lawns and Gardens	0.530	0.570	.05

c. Is the project site presently used by members of the community for public recreation?  Yes  No  
 i. If Yes: explain: \_\_\_\_\_

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  Yes  No  
 If Yes,  
 i. Identify Facilities:  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Does the project site contain an existing dam?  Yes  No  
 If Yes:  
 i. Dimensions of the dam and impoundment:  
 • Dam height: \_\_\_\_\_ feet  
 • Dam length: \_\_\_\_\_ feet  
 • Surface area: \_\_\_\_\_ acres  
 • Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
 ii. Dam's existing hazard classification: \_\_\_\_\_  
 iii. Provide date and summarize results of last inspection:  
 \_\_\_\_\_  
 \_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  Yes  No  
 If Yes:  
 i. Has the facility been formally closed?  Yes  No  
 • If yes, cite sources/documentation: \_\_\_\_\_  
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_  
 \_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  Yes  No  
 If Yes:  
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:  
 \_\_\_\_\_  
 \_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  Yes  No  
 If Yes:  
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  Yes  No  
 Yes - Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
 Yes - Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
 Neither database  
 ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  Yes  No  
 If yes, provide DEC ID number(s): \_\_\_\_\_  
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses?  Yes  No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place?  Yes  No
- Explain: \_\_\_\_\_

**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? 0 - >8' feet

b. Are there bedrock outcroppings on the project site?  Yes  No  
 If Yes, what proportion of the site is comprised of bedrock outcroppings? >5 %

c. Predominant soil type(s) present on project site:

Charlton-Chatfield Cmplx	54	%
Chatfield Hollis Rock Cmplx	21	%
Hollis Rock Outcrop Cmplx	19	%

d. What is the average depth to the water table on the project site? Average: 0->8' feet

e. Drainage status of project site soils:  Well Drained: 95 % of site  
 Moderately Well Drained: \_\_\_\_\_ % of site  
 Poorly Drained 5 % of site

f. Approximate proportion of proposed action site with slopes:  0-10%: 34 % of site  
 10-15%: 10 % of site  
 15% or greater: 56 % of site

g. Are there any unique geologic features on the project site?  Yes  No  
 If Yes, describe: \_\_\_\_\_

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?  Yes  No

ii. Do any wetlands or other waterbodies adjoin the project site?  Yes  No  
 If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?  Yes  No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name Constitution Marsh (Part of Hudson River) Approximate Size 250 acres
- Wetland No. (if regulated by DEC) WP7

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies?  Yes  No  
 If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_

i. Is the project site in a designated Floodway?  Yes  No

j. Is the project site in the 100 year Floodplain?  Yes  No

k. Is the project site in the 500 year Floodplain?  Yes  No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?  Yes  No  
 If Yes:  
 i. Name of aquifer: Prinicipal Aquifer (According to NYSDEC)

m. Identify the predominant wildlife species that occupy or use the project site: \_\_\_\_\_  
 Deer \_\_\_\_\_  
 \_\_\_\_\_

n. Does the project site contain a designated significant natural community?  Yes  No  
 If Yes:  
 i. Describe the habitat/community (composition, function, and basis for designation): \_\_\_\_\_  
 Brackish Tidal Marsh, Brackish Intertidal Mudflats (Constitution Marsh, 800 feet from proposed structure)  
 ii. Source(s) of description or evaluation: \_\_\_\_\_  
 iii. Extent of community/habitat:  
 • Currently: \_\_\_\_\_ 250.000 \_\_\_\_\_ acres  
 • Following completion of project as proposed: \_\_\_\_\_ acres  
 • Gain or loss (indicate + or -): \_\_\_\_\_ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?  Yes  No  
 Per NYSDEC, but not identified. Constitution Marsh

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?  Yes  No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing?  Yes  No  
 If yes, give a brief description of how the proposed action may affect that use: \_\_\_\_\_

**E.3. Designated Public Resources On or Near Project Site**

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No  
 If Yes, provide county plus district name/number: \_\_\_\_\_

b. Are agricultural lands consisting of highly productive soils present?  Yes  No  
 i. If Yes: acreage(s) on project site? \_\_\_\_\_  
 ii. Source(s) of soil rating(s): \_\_\_\_\_

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark?  Yes  No  
 If Yes:  
 i. Nature of the natural landmark:  Biological Community  Geological Feature  
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: \_\_\_\_\_

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area?  Yes  No  
 If Yes:  
 i. CEA name: \_\_\_\_\_  
 ii. Basis for designation: \_\_\_\_\_  
 iii. Designating agency and date: \_\_\_\_\_

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?  Yes  No

If Yes:

i. Nature of historic/archaeological resource:  Archaeological Site  Historic Building or District

ii. Name: Prop'ty shares a border with a portion DeRham Farm, Prop'd bldg is approx' 130' from shared line.

iii. Brief description of attributes on which listing is based:

See attached certificate and description.

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?  Yes  No

g. Have additional archaeological or historic site(s) or resources been identified on the project site?  Yes  No

If Yes:

i. Describe possible resource(s): \_\_\_\_\_

ii. Basis for identification: \_\_\_\_\_

h. Is the project site within 5 miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?  Yes  No

If Yes:

i. Identify resource: Property adjoins Hudson River, a Nat. Heritage Area, & is within 500' of Route 9d, a scenic byway.

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): River is a National Heritage Area. Highway is a Scenic Byway.

iii. Distance between project and resource: 0.15 (to either) miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?  Yes  No

If Yes:

i. Identify the name of the river and its designation: \_\_\_\_\_

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?  Yes  No

#### F. Additional Information

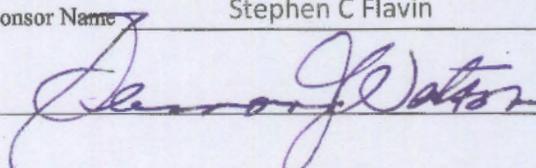
Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Stephen C Flavin Date 07/25/2016

Signature  Title Surveyor for Applicant

**FLAVIN ACCESSORY STRUCTURE  
AND  
ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
SUGGESTED PART TWO  
JULY 25, 2016**

Part 2 - Identification of Potential Project Impacts

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency and the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land			
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
<i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**2. Impact on Geological Features**

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO  YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**3. Impacts on Surface Water**

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO  YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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**4. Impact on groundwater**  
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.  NO  YES  
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)  
 If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**5. Impact on Flooding**  
 The proposed action may result in development on lands subject to flooding.  NO  YES  
 (See Part 1. E.2)  
 If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair or upgrade?	E1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: \_\_\_\_\_

**6. Impacts on Air**  
 The proposed action may include a state regulated air emission source.  NO  YES  
 (See Part 1. D.2.f., D.2.h, D.2.g)  
 If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO <sub>2</sub> ) ii. More than 3.5 tons/year of nitrous oxide (N <sub>2</sub> O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF <sub>6</sub> ) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochlorofluorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**7. Impact on Plants and Animals**  
 The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.)  NO  YES  
 If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>8. Impact on Agricultural Resources</b>			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>9. Impact on Aesthetic Resources</b>			
The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>

a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**10. Impact on Historic and Archeological Resources**

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)

NO

YES

If "Yes", answer questions a - e. If "No", go to Section 11.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3: i. The proposed action may result in the destruction or alteration of all or part of the site or property. ii. The proposed action may result in the alteration of the property's setting or	E3e, E3g, E3f  E3e, E3f, E3g, E1a,	<input checked="" type="checkbox"/>  <input checked="" type="checkbox"/>	<input type="checkbox"/>  <input type="checkbox"/>

integrity.	E1b E3e, E3f, E3g, E3h, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.			

**11. Impact on Open Space and Recreation**  
 The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.  
 (See Part 1. C.2.c, E.1.c., E.2.q.)  
 If "Yes", answer questions a - e. If "No", go to Section 12.

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**12. Impact on Critical Environmental Areas**  
 The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)  
 If "Yes", answer questions a - c. If "No", go to Section 13.

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**13. Impact on Transportation**  
 The proposed action may result in a change to existing transportation systems.  
 (See Part 1. D.2.j)  
 If "Yes", answer questions a - g. If "No", go to Section 14.

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>

b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**14. Impact on Energy**

The proposed action may cause an increase in the use of any form of energy.  NO  YES  
(See Part I. D.2.k)

*If "Yes", answer questions a - e. If "No", go to Section 15.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____ _____		<input checked="" type="checkbox"/>	

**15. Impact on Noise, Odor, and Light**

The proposed action may result in an increase in noise, odors, or outdoor lighting.  NO  YES  
(See Part I. D.2.m, n., and o.)

*If "Yes", answer questions a - f. If "No", go to Section 16.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**16. Impact on Human Health**

The proposed action may have an impact on human health from exposure

NO  YES

to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

**17. Consistency with Community Plans**

The proposed action is not consistent with adopted land use plans.

NO

YES

(See Part 1. C.1, C.2. and C.3.)

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not	C3, D1c,	<input type="checkbox"/>	<input type="checkbox"/>

supported by existing infrastructure or is distant from existing infrastructure.	D1d, D1f, D1d, E1b		
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____		<input type="checkbox"/>	<input type="checkbox"/>

**18. Consistency with Community Character**

The proposed project is inconsistent with the existing community character.  
(See Part 1. C.2, C.3, D.2, E.3)

NO  YES

*If "Yes", answer questions a - g. If "No", proceed to Part 3.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**FLAVIN ACCESSORY STRUCTURE  
AND  
ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
SUGGESTED PART THREE  
JULY 25, 2016**

**Full Environmental Assessment Form**  
**Part 3 - Evaluation of the Magnitude and Importance of Project Impacts**  
**and**

Suggested Part 3, July 25, 2016

**Determination of Significance**

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

**IMPACT IDENTIFIED IN PART 2 AS POTENTIALLY LARGE**

Part 2, Item 10A - Impact on National Register Listed Property.

Condition: The proposed accessory building is located on a parcel that shares a property line with The DeRham Farm, a property listed on the National Register of Historic Places.

Potential Impact: Construction that is not sympathetic to structures might have a negative impact on the listed property. During the Public Hearing, the neighbors, Donald and Sandra Nice expressed a specific concern that the construction would have a negative effect on their residence, which is the mansion house of the DeRham Farm.

The applicant has engaged the services of Carla Cielo, MS, an experienced Building Preservationist to assess potential impacts on the DeRham Farm. In her report dated July 25, 2016, specifically states that the construction that Mr. Flavin plans will "have no adverse effect on the historic DeRham Farm or mansion house for the following reasons." Ms. Cielo's report is attached.

See Continuation Sheet

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status:       Type 1                       Unlisted

Identify portions of EAF completed for this Project:    Part 1             Part 2             Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
Zoning Board of Appeals of the Town of Philipstown, NY as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 61.7.d).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Approval of Special Permit for Stephen Flavin for Accessory Building w/Accessory Apartment

Name of Lead Agency: Zoning Board of Appeals of the Town of Philipstown, NY

Name of Responsible Officer in Lead Agency: Robert Dee

Title of Responsible Officer: Chairman

Signature of Responsible Officer in Lead Agency: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Preparer (if different from Responsible Officer) \_\_\_\_\_ Date: \_\_\_\_\_

**For Further Information:**

Contact Person: Linda Valentino, Philipstown ZBA Clerk  
Address: Town Hall, 238 Main Street, Cold Spring, NY, 10516  
Telephone Number: 845-265-5202  
E-mail: LValentino@philipstown.com

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)  
Other involved agencies (if any)  
Applicant (if any)  
Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

Nevertheless, in response to concerns expressed by the Nices during the Public Hearing, the applicant agreed to and has provided a grading and landscape plan that will screen the view of and block the residential lighting from the proposed construction from their residence.

In addition to the landscape plan, the applicant's designers moved the garage door, which would have faced the Nices' property, to an adjacent wall that will not be visible to the Nices. In addition to removing the garage door from the screened view, this change allows more fill to be placed where the garage door was originally planned, thus reducing the amount of exposed foundation.

While there are certainly instances where proposed construction in the vicinity of an historic property or structure can have an adverse impact, the plans presented by the applicant's architect during the Public Hearing show a building that is small in scale, uses local stone to face the foundation and traditional board and batten siding.

Finally, the proposed accessory building will be located more than 100 feet from the common boundary with the DeRham Farm and more than 200 from its mansion house.

In summary, regardless that the applicant's expert expressed the opinion that the proposed construction will "have no adverse effect on the historic DeRham Farm or mansion house ...," the applicant has provided the following mitigations to the perceived impacts presented to the Zoning Board:

- A setback from the property line that is 3 times than that required by the Zoning Law;
- A 200-foot separation between the mansion house and the accessory building;
- A traditional design that is sympathetic to the local environment; and
- A grading and landscape plan will visually screen the accessory from the mansion.

All of the above leads to a reasonable conclusion the perceived impact will not occur.

#### IMPACTS IDENTIFIED IN PART 2 AS SMALL OR NOT EXPECT TO OCCUR

Part 2, Item 3d - The Proposed Action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other waterbody.

Potential Impact: Damage to the wetland ecology or its capacity to mitigate flooding.

The applicant's property borders on Constitution Marsh, a tidal wetland. The proposed accessory building is located more than 800 feet horizontally and more than 160 feet vertically from Constitution Marsh. This separation is far greater than any regulatory requirement and sufficient reason to conclude that the project will not have any impact on Constitution Marsh.

During the Public Hearing those that spoke alleged that there was a regulated wetland within 100 feet of the proposed driveway. They indicated that there was a spring that fed the wetlands and indicated that it should be shown on the plans and that a wetland permit would be required if the project were to be allowed to go forward.

The applicant applied to the Town of Philipstown for a Wetlands Determination. The Town Wetlands Inspector, David Klotzle inspected the property and on June 28, 2016, issued a determination that there were no wetlands on the property in the vicinity of the proposed accessory building. Nevertheless, in response to the request of the neighbor to show the spring on the map, the applicant's surveyors located the spring and the small wet area that it appears to dampen. The spring and the wet area, which encompasses only 2,837 square feet, has been plotted on the grading and

planting plan. The Town of Philipstown regulates wetlands of 1/4 acre (10,890 square feet). The wet area is clearly too small to be a regulated wetland as claimed. It is noted that the grading and planting plan has avoided any intrusion into the small wet area, regardless that it is not regulated. Because, according to Mr. Klotzle the wet area is not a wetlands and because the applicant's designers have avoided any intrusion into it, it is reasonable to conclude that there will be no impact upon a regulated wetland.

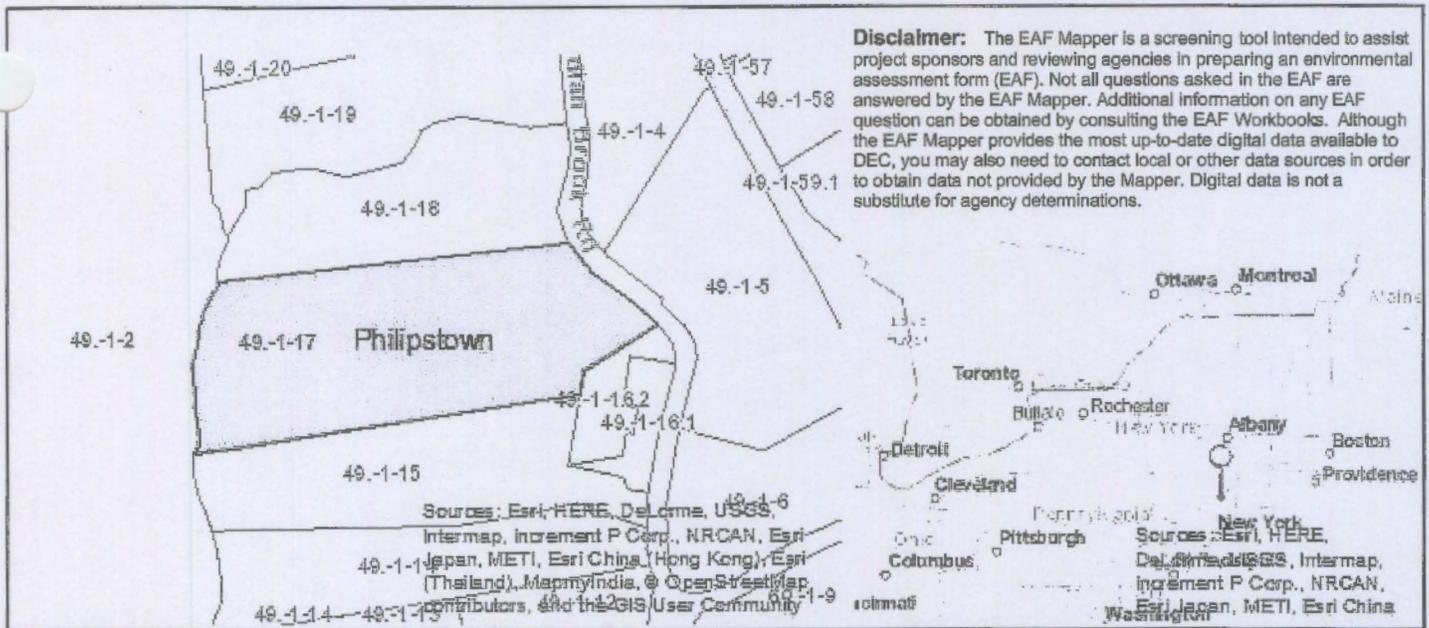
Part 2, Item 5e - The Proposed Action may change flood water flows or contribute to flooding.

Potential Impact: Those that spoke at the public hearing were concerned that the construction of the accessory building and the driveway to it would cause flooding on their property.

An examination of the topography submitted by the applicant clearly shows that any stormwater flowing from the area of the accessory building and the driveway to it would not flow toward the mansion. Moreover, the landscape and drainage plan provided by the applicant returns any stormwater flow to its original course well within the property owned by the applicant. Two "DRAINAGE PATHS" maps are attached to this Part 3. One shows the flow path that stormwater will take as it now passes by the area of the accessory building and its driveway. The second shows the same limits after construction. In both cases stormwater passing through the proposed construction will pass well to the northwest of the mansion. The maps also demonstrate that there will be no change in location of the area where stormwater flows naturally onto the Nices' property. Based on the foregoing, it is reasonable to conclude that the perceived impact will not occur.

ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
ATTACHMENTS  
JULY 25, 2016

**FLAVIN ACCESSORY STRUCTURE  
AND  
ACCESSORY APARTMENT  
FULL  
ENVIRONMENTAL ASSESSMENT FORM  
ATTACHMENTS  
JULY 25, 2016**



B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):279.2
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	WP-7
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes

E.2.l. [Aquifers]	Yes
E.2.i. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	Yes
E.2.n.i [Natural Communities - Name]	Brackish Tidal Marsh, Brackish Intertidal Mudflats
2.n.i [Natural Communities - Acres]	135.46, 113.76
E.2.o. [Endangered or Threatened Species]	Yes
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	DeRham Farm
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



NEW YORK STATE PARKS AND RECREATION  
DIVISION FOR HISTORIC PRESERVATION

*This is to certify that*

*DeRham Farm*

*Garrison Vicinity, Putnam County*  
*in recognition of its*

*Historical and Architectural*

*significance and to encourage its preservation*

*was listed on the*

NATIONAL REGISTER OF HISTORIC PLACES

*by the*

UNITED STATES DEPARTMENT OF THE INTERIOR

*upon nomination by the State Historic Preservation Officer*

*under provisions of the National Historic Preservation*

*Act of 1966.*

*Avin Lehman*

COMMISSIONER, NEW YORK STATE PARKS AND RECREATION  
STATE HISTORIC PRESERVATION OFFICER

*28 March 1980*



de RHAM FARM

The history of the de Rham Farm reflects the historic and social evolution of the lower Hudson River Valley, and the architectural evolution of the mansion house represents a progression from Federal to Classic Revival and late nineteenth century Eclectic building styles. The land was initially developed by the Davenport family, tenant farmers in Philipse Upper Manor, and occupied by soldiers of the Connecticut Line during the fortification of West Point. In the early nineteenth century, the main house served briefly as a boarding school, before banker Henry C. de Rham bought the property in 1834. His heirs owned the land for over a century. (The de Rham Farm became one of the first summer houses along the Hudson and, with its many nineteenth century outbuildings, it remains one of the best preserved today.) >

(Historical and Architectural)

DAVID J KLOTZLE  
WETLAND INSPECTOR PHILIPSTOWN N.Y.  
238 Main Street  
Cold Spring, N.Y. 10516  
914 736 7132  
845 265 5202

To: Steven Flavin  
51 Indian Brook Road  
Garrison NY 10524

Tax Map # 49.-1-17

From: David J Klotzle

Re: Local wetland /watercourse Determination

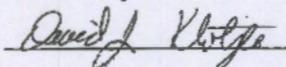
Date: 6/28/16

Dear Mr. Flavin

I have inspected your lot at the above address and Tax Map # and date and find that that no wetlands or water courses as defined by the Philipstown Code exist within 100 feet of the proposed new garage as shown on the site plan prepared by Badey & Watson and dated 7/22/15 .

If I can be of any further assistance please feel free to contact me.

Sincerely



David J Klotzle

---

## BUILDING PRESERVATION & DESIGN

548 Easton Trenton Turnpike, Rt. 579  
Ringoes, New Jersey 08551

July 25, 2016

Chairman Robert Dee and Members of the Zoning Board of Appeals  
Town of Philipstown  
238 Main Street  
Cold Spring, NY 10516

Dear Mr. Dee and Honorable Board Members:

The Flavin property is located at Garrison in the Town of Philipstown and the County of Putnam New York. It is adjacent to the former DeRham Farm mansion house which is currently owned by the Nice family. Once a gentleman's farm and summer residence of a wealthy NYC family with 14 subordinate outbuildings, this part of the DeRham Farm is now heavily forested and the landscape bears little resemblance to its former agricultural days. The DeRham Farm was subdivided into four parcels in 1949 with the former carriage house, caretaker's cottage and orchard house converted for use as permanent residence. One parcel was further subdivided circa 1999 and a new house was constructed at that time.

The DeRham Farm was listed on the National Register of Historic Places in 1980 because it illustrates the "historic and social development of the area" and as a representative example of a "gentlemen's farm" which "evolved over time". The Flavin property is beyond the DeRham Farm national register boundaries. The house is not on the register but may be historically associated with the DeRham Farm.<sup>1</sup>

Carla Cielo, Historic Preservation Consultant, reviewed the Flavin property site plan, the architectural renderings of the ancillary structure proposed for the Flavin property and the DeRham Farm national register nomination from 1980. The proposed ancillary structure on the Flavin property was found to have no adverse effect on the historic DeRham Farm or mansion house for the following reasons:

A national register listing carries no restrictions what-so-ever for either the nominated property or an adjacent property. A local governing body can enact legal restrictions in the form of an

---

<sup>1</sup> According to the current owner Mr Stephen Flavin, the house was once the hay barn for the DeRham Farm and was relocated to the current property.

ordinance but none exists for the Town of Philipstown. Therefore new construction is not restricted if within or adjacent to a historic property.

The landscape of the DeRham Farm is not a significant component to the nomination. It has been heavily altered over time and bears no resemblance to its 19<sup>th</sup> century agricultural heritage. The forest cover acts as a visual screen between the two properties.

The property is within the scenic protection area as designated by the Town of Philipstown. The proposed ancillary building does not exceed 3000 square feet in floor area and would not be visible from a publicly accessible place even when there are no leaves on the trees.

The DeRham Farm nomination notes the evolution of the farm as a contributing factor to its significance. The proposed construction continues the pattern of construction set by historic precedents.

The precedents for infill construction within the DeRham Farm national register area, was set circa 1999 with the construction of a new house on one of the four parcels.

In conclusion, there is no reason related to historic significance to deny the Flavin's their right to build an ancillary structure on their property.

Carla Cielo meets and exceeds the National Park Service criteria for an Architectural Conservator and an Architectural Historian. She holds a Masters of Science degree from Columbia University in historic preservation with a concentration in masonry conservation. She has been a consultant in the field of historic preservation since 1997 and has over 20 years experience.

Respectfully submitted,

*Carla Cielo*

Carla Cielo



445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
T 914 761 1300  
F 914 761 5372  
cuddyfeder.com

Lucia Chiocchio  
lchiocchio@cuddyfeder.com

July 25, 2016

**VIA E-MAIL and BY HAND**

Hon. Robert Dee, Chairman  
And Members of the Zoning Board of Appeals  
Town of Philipstown Town Hall  
238 Main Street  
P.O. Box 155  
Cold Spring, NY 10516

RECEIVED  
JUL 25 2016  
BY: 

Re: Special Permit Application  
Minor Accessory Structure  
Premises: 51 Indian Brook Road, Garrison, New York 10524 (SBL: 49.-1-17)

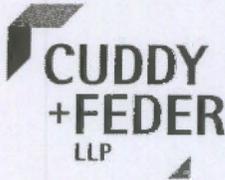
EXHIBIT # 31

Dear Chairman Dee and Members of the Zoning Board of Appeals:

This letter and attachments are respectfully submitted on behalf of our client, Mr. Stephen Flavin (the "Applicant"), the owner of the above-referenced Premises in connection with his Special Permit Application for a proposed modest accessory structure and in response to the concerns raised by the owners of 73 Indian Brook Road. We greatly appreciate this Board's time and consideration in this matter and for graciously scheduling a Special Meeting on Monday, July 25<sup>th</sup>, for the continuation of the Public Hearing on the Special Permit for the limited consideration of the landscaping and screening plan.

For the reasons set forth herein, we respectfully submit that the record for this complete Application demonstrates compliance with all applicable Special Permit criteria for the proposed minor accessory structure and that the Applicant has more than sufficiently addressed the public comments during the Public Hearings held on June 13<sup>th</sup> and July 11<sup>th</sup>. Moreover, it is respectfully submitted that the proposed minor accessory structure is a Type II action under the SEQRA Regulations Section 617.5(c)(10), requiring no further environmental review. Thus, we request that the Board close the Public Hearing, and in consideration of this Board's detailed review of the Applicant's submissions and comments from the Town's staff, render a decision in favor of the Application at this evening's meeting.

In an effort to address the neighbor's concerns, the Applicant's surveyor, Mr. Glenn Watson reached out to the Nices to discuss this minor accessory structure on the Applicant's nearly 10-acre parcel. In response to the comments from the Nices' at the July 11<sup>th</sup> public hearing, Mr.



July 25, 2016

Page -2-

Watson's office prepared a detailed landscaping and screening plan and met with them on Saturday, July 23<sup>rd</sup>, to review this detailed landscaping and screening plan. The This Landscape Plan is submitted herewith.

**I. The Proposed Accessory Structure Complies With Zoning; Satisfies The Special Permit Criteria And Will Not Have A Negative Impact On The Neighborhood.**

**A. The Proposed Minor Accessory Structure Is Permitted In The Zoning Code.**

In accordance with Town of Philipstown Zoning Code (the "Zoning Code") §175-12(C)(1)(b), one accessory apartment per lot may be allowed:

by special permit granted by the Zoning Board of Appeals, without a separate site plan review... on a nonconforming residential lot that has at least 40,000 square feet of lot area, on a lot with nonconforming structures where there will be no increase in the nonconformity of any structure...<sup>1</sup>

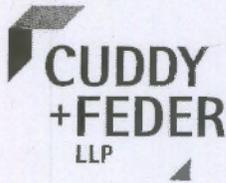
The proposed minor accessory garage and accessory apartment is considered an as-of-right use, where a zoning lot is conforming to the 10-acre minimum zoning requirement in the RC Zoning District. According to the tax maps for the Town of Philipstown, the Applicant's lot is the largest of the surrounding tax lots,<sup>2</sup> and the proposed minor accessory structure is consistent with adjacent properties with smaller lot sizes. See Exhibit A - Excerpt of Tax Map. The Applicant proposes a modest accessory structure on his nearly 10-acre lot; a lot that was made non-conforming by a zoning change. As a result, the Applicant requires a Special Permit for the proposed minor accessory structure. The language of Section 175-12(C)(1)(b) above clearly establishes that site plan review of the proposed minor accessory structure is not required.

According to the New York Court of Appeals, New York's highest court, generally:

a special exception [permit/use] gives permission to use property in a way that is consistent with the zoning ordinance, although not necessarily allowed as of right. The significance of this distinction is that the inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted

<sup>1</sup> TOWN OF PHILIPSTOWN CODE §175-12(C)(1)(b).

<sup>2</sup> While the tax map indicates that the Applicant's lot is 10.13 acres, which would permit the proposed use as-of-right, the deed for the Premises provides that the lot is 9.25 acres, which is just below the threshold, thus requiring a special use permit.



July 25, 2016

Page -3-

use is in harmony with the general zoning plan and will not adversely affect the neighborhood'...<sup>3</sup>

It is respectfully submitted that the Applicant's proposed minor accessory structure complies with the legislatively imposed criteria and will have no adverse impacts on the neighborhood as demonstrated herein and in the record.

**B. The Proposed Accessory Structure Satisfies The Special Permit Criteria.**

It is respectfully submitted that the record for this Application, which the Zoning Board of Appeals determined was complete, demonstrates that the proposed accessory structure fully satisfies the criteria for issuance of a special permit as set forth in Zoning Code §175-63:

- (1) Will comply with all land use district, overlay district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located.
  - As discussed herein, the proposed accessory structure, which is authorized by special permit, is the result of a legislative determination that, in general, the use is consistent with the comprehensive plan and/or zoning regulation, and that it will not, in and of itself, have a detrimental negative impact on the neighborhood.<sup>4</sup> Moreover, but for the size of the Premises, slightly under the 10 acre lot size minimum, the proposed accessory structure would be permitted as-of-right, requiring no review by this Board.
- (2) Will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any public or private nuisances.
  - The proposed accessory structure includes a garage and small accessory apartment, uses that the Town determined are wholly consistent with the neighborhood. It is inconceivable that the proposal will result in excessive noise, dust, odors, solid waste, or glare, or create any public or private nuisances. Moreover, the Applicant proposed substantial screening, which includes a landscaping plan, to mitigate any potential minor views from adjacent properties.

---

<sup>3</sup> Retail Prop. Trust v. Bd. of Zoning Appeals of Town of Hempstead, 98 N.Y.2d 190, 195, 774 N.E.2d 727 (2002) (citing Matter of North Shore Steak House v Board of Appeals of Inc. Vil. of Thomaston, 30 NY2d 238, 243 (1972) [citations omitted]); see also Nathan v. Bd. of Appeals of Town of Hempstead, 125 A.D.3d 866, 5 N.Y.S.3d 127 (N.Y. App. Div. 2015) (holding that "[a]n applicant for a special exception permit need only show that it has complied with every legislatively imposed condition on the permitted use").

<sup>4</sup> See, Penny Arcade, Inc. v. Town Bd. of Town of Oyster Bay, 75 A.D.2d 620, 427 N.Y.S.2d 52 (2d Dep't 1980).

(3) Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, as well as any improvements proposed to be made to them by the applicant.

- The proposed use is consistent with the zoning code, and will not cause additional significant traffic impacts.

(4) Will be accessible to fire, police, and other emergency vehicles.

- The accessory use will not change the current acceptable access to fire, police, and other emergency vehicles.

(5) Will not overload any public water, drainage, sewer system, or any other municipal facility.

- The Applicant submitted a letter authorization to the Putnam County Department of Health Division of Environmental Services for the proposed action, which determined that the proposed action will not overload public water or municipal services. The proposed accessory structure will not require public sewer or public water services and will not have a measurable impact on any municipal service.

(6) Will not materially degrade any watercourse or other natural resource or ecosystem and will not endanger the water quality of an aquifer.

- Included in the record and enclosed to this letter as Exhibit B, please find a copy of the Local Wetland/Watercourse Determination, rendered by the Town of Philipstown Wetland Inspector, David J. Klotzle, dated June 28, 2016. Pursuant to his inspection of the Premises, he confirmed "... that no wetlands or water courses as defined by the Philipstown Code exist within 100 feet of the proposed new garage as shown on the site plan prepared by Badey & Watson and dated 7/22/15". Notwithstanding Mr. Klotzle's determination, the property owner(s) at 73 Indian Brook Road, through their counsel, submitted a letter dated June 11, 2016, which enclosed an unidentified image from an unknown location, claiming impacts to wetlands. The Applicant's surveyors located the "spring" that the owners of 73 Indian Brook Road requested be shown on the plan and they also located the wet area surrounding it. This area is only about 2,837 square feet or 1/4 of the minimum size for a regulated wetland. Moreover, as shown in the enclosed Landscape Plan, the entire project, including landscaping avoids any disturbance in this area. It is respectfully submitted that Mr. Klotzle's field analysis and determination fully satisfies the conclusion that the proposed accessory structure will not impact any watercourse or other natural resource.

(7) Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, hydrology,

and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

- The complete record includes data and information that demonstrates that the proposed minor accessory structure is suitable for the 9.25 acre and will have no adverse impacts. The record shows that the proposed minor accessory structure will have no impacts to wetlands or watercourses and will not result in adverse visual impacts. Moreover, as noted above, but for the fact that the Premises is just under 10 acres in size, the proposed minor accessory structure would be permitted as-of-right.

(8) Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.

- As set forth in the Landscape Plan, the proposed minor accessory structure will be screened to mitigate any potential limited views from neighboring properties. In the July 22<sup>nd</sup> Zarin & Steinmetz letter submitted on behalf of the Nices, the neighbors claim that the height of the proposed minor accessory structure results in adverse impacts without providing any data to support this claim. In defining aesthetic impacts, the DEC provides the following guidance: "Mere visibility, even startling visibility of a project proposal, should not be a threshold for decision making."<sup>5</sup> Thus, merely being able to see the top of the proposed minor accessory structure from at least two hundred feet away is by no means indicative of an adverse impact.
- In addition, as set forth in detail below and in the attached letter prepared by Carla Cielo, Historic Preservation Consultant with building Preservation & Design (the "Historic Preservation Letter"), the proposed minor accessory structure will "have no adverse effect on the historic DeRham Farm or mansion house...".

(9) Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses that are incompatible with residential use.

- Not Applicable.

(10) Will not adversely affect the availability of affordable housing in the Town.

- Not Applicable.

(11) Will comply with applicable site plan criteria in § 175-65D.

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<sup>5</sup> DEC Guidance Policy: Assessing and Mitigation Visual Impacts:  
[http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/visual2000.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/visual2000.pdf)

- The record demonstrates through data, details and field review that the Applicant's proposed minor accessory structure is zoning compliant, preserves the natural features of the Premises (including wetland areas), is landscaped and screened to avoid any potential impacts and will not result in any impacts to historic resources.

(12) If the property is in a residential district, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.

- The Applicant proposes a modest accessory structure, which has been modified to address comments received by this Board and the adjacent property owners, including a detailed landscaping and screening plan. The record also demonstrates that the proposed accessory structure will not have any significant adverse environmental impacts. In addition, but for the fact that the Premises is slightly under 10 acres in size, the proposed accessory structure would be permitted as-of-right.

## **II. The Proposed Minor Accessory Structure Is Considered A Type II Action under SEQRA.**

The Applicant's Special Permit application is a Type II Action under the SEQRA Regulations section 617.5(c)(10), since it consists of "construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density." The proposed action consists of the construction of a minor 1,132 square-foot accessory garage with an 800 square-foot accessory apartment. The proposed minor accessory structure conforms with zoning as accessory apartments are permitted and are not counted as a dwelling unit for the purposes of determining density.<sup>6</sup> The proposed minor accessory structure requires no variances and is consistent with land use controls.

According to the NYS DEC, the impacts associated with residential structures are typically minor in nature, and the DEC's Final GEIS for the 1995 SEQRA Amendments confirms that "[t]he construction of one single-family, two-family or three-family home should never result in the preparation of an EIS.<sup>7</sup> The proposed use involves the construction of a minor accessory appurtenant residential structure to the principal structure on the Premises. The NYS DEC notes that "there have never been size limits associated with this Type II item and in order for a structure to be accessory/appurtenant there must be a principal structure on the site."<sup>8</sup> When providing guidance on this Type II action, the DEC Handbook states that accessory structures must be "minor" ones having a "secondary" use, or facilities adjunct to, or supporting some main

<sup>6</sup> TOWN OF PHILIPSTOWN CODE §175-12(C)(2).

<sup>7</sup> See, FGEIS on Proposed Amendments to SEQRA Regulations, Sept. 6, 1995, Sec. 617.5(9).

<sup>8</sup> See, FGEIS on Proposed Amendments to SEQRA Regulations, Sept. 6, 1995, Sec. 617.5(10).



July 25, 2016  
Page -7-

use. The DEC Handbook also notes that the list of accessory structures is not intended to be exclusive or complete. It is clear that the proposed accessory structure containing a garage and an apartment, which are classified as permitted accessory uses in the Zoning Code, meet the Type II classification. Indeed, but for the fact that the Premises is just under 10 acres in size, the proposed accessory structure would be permitted as-of-right, requiring no discretionary review or SEQRA review.

The July 22, 2016 Zarin & Steinmetz letter claims that the proposed minor accessory structure is a Type I action given the Premises' proximity to a designated historically significant area. This claim is based on a letter from the State Department of Parks, Recreation and Historic Preservation ("NYSHPO").

It is clear that when writing its letter, the NYSHPO appears to have been under the impression that the proposed minor accessory structure was an "unlisted" action, rather than a Type II action, when it responded. Indeed, the NYSHPO letter makes no indication that they reviewed the project details. Only "unlisted" actions are eligible to be elevated to "Type I" status by proximity to historically designated areas. (6 NYCRR 617.4 (b) (9) provides: "Any unlisted action...occurring ...within or substantially contiguous to, any historic...district...") "Type II" actions are not eligible to be elevated by proximity to historic resources. Thus, given that the proposed accessory structure is a Type II action, it cannot be elevated to a Type I action. In fact, no SEQRA compliance is required for Type II actions. (6 NYCRR 617.6 (a) (1) (i)) There is no need to circulate a lead agency notice for a Type II action, and no need for a determination of significance, EIS or findings statement. (6 NYCRR 617.3 (f)).

The DEC SEQRA Handbook confirms that it is improper to use SEQRA as a mechanism for delay when reviewing an application for a small project that is simply disfavored by neighbors on grounds that really show opposition to a use permitted by zoning; nor can SEQRA be used in an attempt to override zoning.<sup>9</sup> All of the claims of "environmental impacts" of this project by the neighbors are merely opposition to the proposed use of the property in the guise of "environmental impact." Their allegations are simply unsupported conclusory characterizations and speculation of impacts of the minor project. While we understand and recognize this Board's efforts to be receptive to neighbors' "concerns," the Zoning Board of Appeals special permit jurisdiction does not extend to adjudicating the desirability of a use already permitted by zoning, and the neighbor's objections don't create such jurisdiction.

Notwithstanding the above details, we enclose a Full EAF as requested by the Zoning Board of Appeals after the meeting on July 11<sup>th</sup>. This submission is made while reserving all rights to dispute and challenge any determination that the proposed action is either an Unlisted Action or a Type I action. A Full EAF is submitted in consideration of this Board's request and to avoid further delay in this matter.

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<sup>9</sup> The SEQRA Handbook, 3rd Ed. (2010), p. 32.



July 25, 2016  
Page -8-

Moreover, as demonstrated in the attached Historic Preservation Letter, based on Ms. Cielo's review of the Applicant's property, the adjacent properties and the historical designation determination, the proposed accessory structure will "have no adverse effect on the historic DeRham Farm or mansion house...". . . It is important to note that the Applicant's Premises is not included in the National Register listing. The Historic Preservation Letter confirms that "[a] national register listing carries no restrictions what-so-ever for either the nominated property or an adjacent property" and further that "precedents for infill construction within the DeRham Farm national register area, was set in 1999 with the construction of a new house on one of the four [Nice Property] parcels". Thus, it is respectfully submitted that the proposed minor accessory structure will not result in any adverse impacts to the surrounding historically designated area.

### Conclusion

For all of the reasons discussed above, we respectfully submit that the complete Application record demonstrates that the requested Special Permit meets all of the applicable criteria for approval. Accordingly, we respectfully request that the Board issue a favorable decision at tonight's meeting.

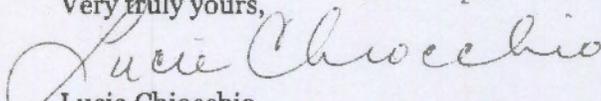
In support of the Special Permit Application, please find attached:

- Exhibit A: Excerpt of Town of Philipstown Tax Map
- Exhibit B: Local Wetland/Watercourse Determination of No Impact
- Exhibit C: Historic Preservation Consultant Letter Determination of No Impact
- Exhibit D: Full Environmental Assessment Form

Also, please find enclosed the Grading & Planting Plan, prepared by Badey & Watson Surveying & Engineering, PC.

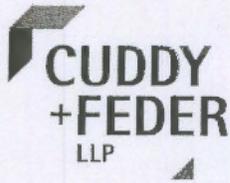
Thank you for your consideration in this matter. We look forward to discussing the landscaping and screening plan at this evening's meeting.

Very truly yours,

  
Lucia Chiochio

cc: Adam L. Rodd, Esq. – Attorney to the Zoning Board of Appeals  
Stephen C. Flavin  
Glennon J. Watson, LS, Badey & Watson  
Taylor M. Palmer, Esq.





July 25, 2016  
Page -10-

**Exhibit B**  
**Local Wetland/Watercourse Determination**

DAVID J KLOTZLE  
WETLAND INSPECTOR PHILIPSTOWN N.Y.  
238 Main Street  
Cold Spring, N.Y. 10516  
914 736 7132  
845 265 5202

To: Steven Flavin  
51 Indian Brook Road  
Garrison NY 10524

Tax Map # 49.-1-17

From: David J Klotzle

Re: Local wetland /watercourse Determination

Date: 6/28/16

Dear Mr. Flavin

I have inspected your lot at the above address and Tax Map # and date and find that that no wetlands or water courses as defined by the Philipstown Code exist within 100 feet of the proposed new garage as shown on the site plan prepared by Badey & Watson and dated 7/22/15 .

If I can be of any further assistance please feel free to contact me.

Sincerely

David J Klotzle

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JUL 25 2016  
BY: *h*



July 25, 2016  
Page -11-

Exhibit C  
Historic Preservation Consultant Letter (see attached)

RECEIVED  
JUL 25 2016  
L.A. *R*

WESTCHESTER | NEW YORK CITY | HUDSON VALLEY | CONNECTICUT

EXHIBIT # 31c

C&F 3148516.2

# CARLA CIELO

Phone: 908-284-9638

Email: farmhouse ruins@me.com

Web page: historicbuildingpreservation.com

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## BUILDING PRESERVATION & DESIGN

548 Easton Trenton Turnpike, Rt. 579  
Ringoos, New Jersey 08551

July 25, 2016

Chairman Robert Dee and Members of the Zoning Board of Appeals  
Town of Philipstown  
238 Main Street  
Cold Spring, NY 10516

Dear Mr. Dee and Honorable Board Members:

The Flavin property is located at Garrison in the Town of Philipstown and the County of Putnam New York. It is adjacent to the former DeRham Farm mansion house which is currently owned by the Nice family. Once a gentleman's farm and summer residence of a wealthy NYC family with 14 subordinate outbuildings, this part of the DeRham Farm is now heavily forested and the landscape bears little resemblance to its former agricultural days. The DeRham Farm was subdivided into four parcels in 1949 with the former carriage house, caretaker's cottage and orchard house converted for use as permanent residence. One parcel was further subdivided circa 1999 and a new house was constructed at that time.

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Carla Cielo, Historic Preservation Consultant, reviewed the Flavin property site plan, the architectural renderings of the ancillary structure proposed for the Flavin property and the DeRham Farm national register nomination from 1980. The proposed ancillary structure on the Flavin property was found to have no adverse effect on the historic DeRham Farm or mansion house for the following reasons:

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---

<sup>1</sup> According to the current owner Mr Stephen Flavin, the house was once the hay barn for the DeRham Farm and was relocated to the current property.

EXHIBIT # 31c

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JUL 25 2016  
BY: R

ordinance but none exists for the town of Philipstown. Therefore new construction is not restricted if within or adjacent to a historic property.

The landscape of the DeRham Farm is not a significant component to the nomination. It has been heavily altered over time and bears no resemblance to its 19<sup>th</sup> century agricultural heritage. The forest cover acts as a visual screen between the two properties.

The property is within the scenic protection area as designated by the Town of Philipstown. The proposed ancillary building does not exceed 3000 square feet in floor area and would not be visible from a publicly accessible place even when there are no leaves on the trees.

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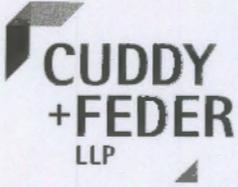
In conclusion, there is no reason related to historic significance to deny the Flavin's their right to build an ancillary structure on their property.

Carla Cielo meets and exceeds the National Park Service criteria for an Architectural Conservator and an Architectural Historian. She holds a Masters of Science degree from Columbia University in historic preservation with a concentration in masonry conservation. She has been a consultant in the field of historic preservation since 1997 and has over 20 years experience.

Respectfully submitted,

*Carla Cielo*

Carla Cielo



July 25, 2016  
Page -12-

**Exhibit D**  
**Full Environmental Assessment Form (see attached)**

RECEIVED  
JUL 25 2016

BY: A.....

EXHIBIT # 31d

From mr. Bonafide

**Subject:** From mr. Bonafide  
**From:** Brian Nice <briannice@me.com>  
**Date:** 7/20/2016 9:39 AM  
**To:** lvalentino@philipstown.com

Linda, as you can see it was sent to mr. Dee July 14th.  
Sandra

---

Sent from my iPad

—Attachments:—

DeRham Farm-Indian Brook Road-NYS OPRHP  
Letter 7-14-16.pdf

1.6 MB

EXHIBIT # 30

RECEIVED  
JUL 20 2016  
BY: L



**Parks, Recreation  
and Historic Preservation**

ANDREW M. CUOMO  
Governor

ROSE HARVEY  
Commissioner

July 14, 2016

Mr. Robert Dee  
Chair, Philipstown Zoning Board of Appeals  
PO Box 155  
Cold Spring, NY 10516

Re: Proposed Special Use Permit/51 Indian Brook Road  
Philipstown, Putnam County

Dear Mr. Dee:

Our office was recently contacted by Sandra Nice regarding this action before your Town's Zoning Board of Appeals. Specifically, Ms. Nice asked about the interaction of National Register of Historic Places listed properties and the New York State Environmental Quality Review Act.

In our conversation I explained to her that their property, which is historically known as the DeRham Farm, was listed in the National Register on May 6, 1980 (1980 Nomination Map Attached). This National Register property physically abuts the property under consideration for a Special Use Permit by your Board.

I went on to explain to Ms. Nice that according to the NYS Department of Environmental Conservation's web site for SEQRA: *"SEQR applies to local government decisions to adopt zoning laws and ordinances or to modify existing zoning laws and ordinances. Certain zoning actions receive special attention under SEQR. For example, zoning actions that change the allowable uses on twenty-five or more acres of land are classified as Type I actions. Special or conditional use permits also require SEQR review."*

As a result, the review of a Special Use Permit is usually a cause for a municipality to undertake a SEQR review and provide the prerequisite "Hard Look" required by the statute before rendering a decision. I also went on to explain that under the SEQR regulations (6 NYCRR Part 617.4(9)) discretionary actions by a municipality located within or substantially contiguous to a National Register Listed (or recommended) property, such as the historic DeRham Farm, would be automatically classified as a Type I action under SEQR. This section of the regulations defines this Type I trigger as: *"any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of*

<sup>1</sup> <http://www.dec.ny.gov/permits/6463.html>

RECEIVED  
JUL 20 2016

*Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulations[CFR] parts 60 and 63, 1994 [see section 617.17 of this Part]."*

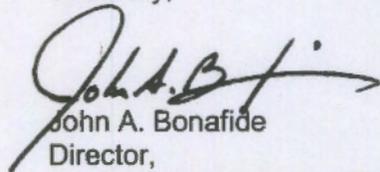
Based on a review of your Board's minutes from June 13, 2016 it appears that the subject property is *substantially contiguous* to the National Register DeRham Farm with the actual construction site only 130 feet from the boundary.

Based upon our review of the minutes I would expect that the Lead Agency will carefully consider issues of direct and indirect impacts that could adverse impact the historic property. Mitigation measures such as screening, maximum building height, the building's orientation, its color (due to height and visibility) and the reflective qualities of surfaces facing the historic property could be considered to minimize impacts.

For future environmental reviews your local boards may find it useful to access our office's on-line GIS based Cultural Resources Information System (CRIS).<sup>2</sup> The system displays archaeologically sensitive areas as well as National Register Listed properties. In addition, our entire survey catalog of all buildings we retain records on can be assessed for planning purposes through this site.

Thank you for considering this information in your deliberations on this matter and please do not hesitate to contact me at 518-268-2166 or [john.bonafide@parks.ny.gov](mailto:john.bonafide@parks.ny.gov) if you would like a more formal comments from this office under your SEQR review.

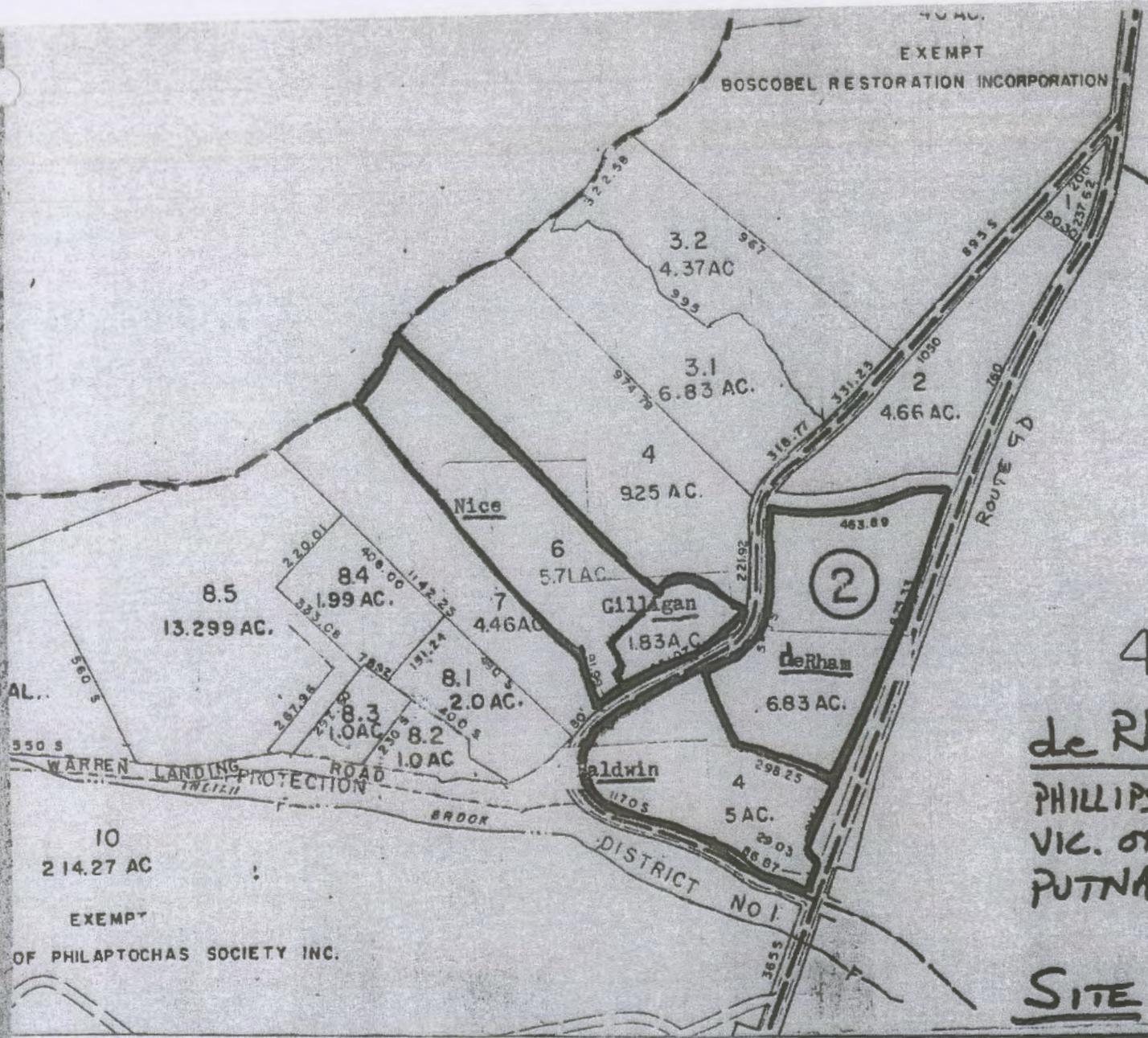
Sincerely,



John A. Bonafide  
Director,  
Technical Preservation Services Bureau  
Agency Historic Preservation Officer

cc: Sandra Nice (via email)

<sup>2</sup> To access the CRIS System simply search for **NYSHPO CRIS** or go to <https://cris.parks.ny.gov/Login.aspx?ReturnUrl=%2f>. We encourage users to sign up for a NY.Gov password, which will give the user a much broader search capability.



43

de Rhan Farm  
 PHILLIPSTOWN  
 VIC. OF GARRISON  
 PUTNAM CO.

SITE PLAN

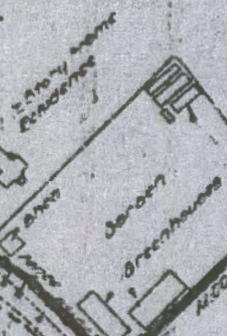
Survey of property belonging to Mrs. Henry C. DeRham, Indian Brook Rd., Garrison, Philipstown, Putnam County, N.Y.

Derham Estate, Garrison Vic., Putnam Co.

AQUEDUCT

STATE HIGHWAY ROUTE 9D

de Rham



SURVEY OF PROPERTY  
SITUATE IN THE  
TOWNSHIP OF PHILIPSTOWN  
PUTNAM COUNTY  
PROPERTY OF  
FRANCES HILL de RHAM  
SCALE 1"=100'

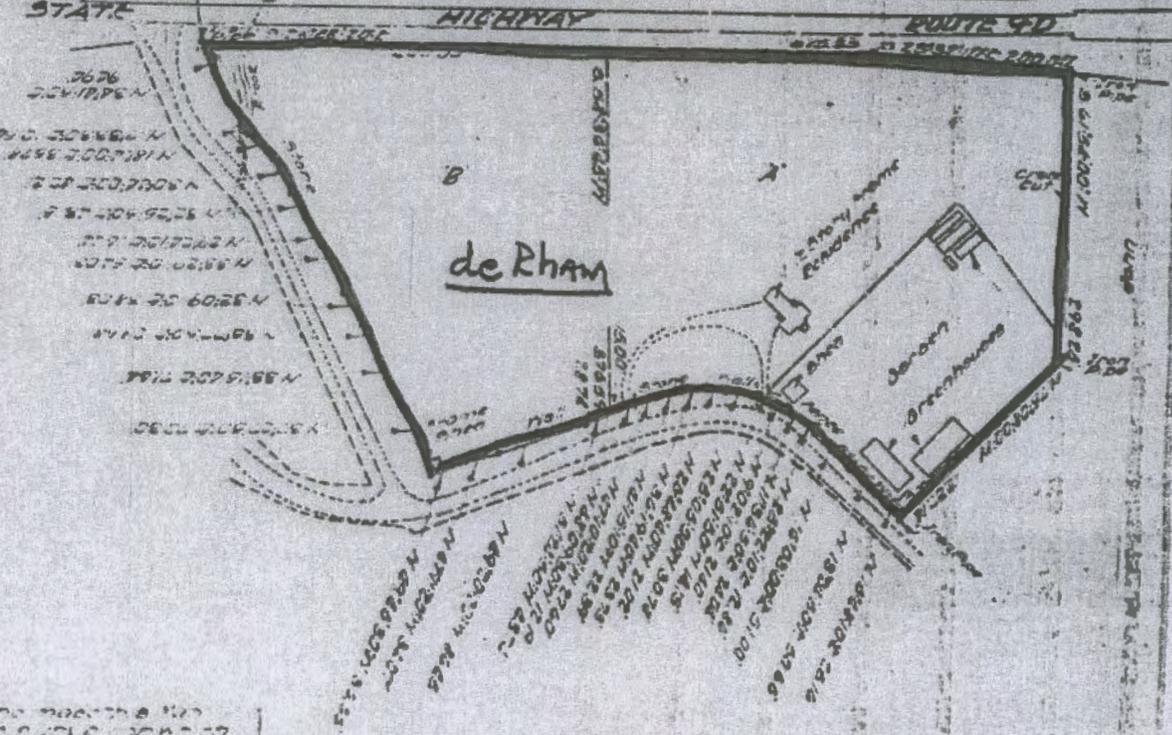
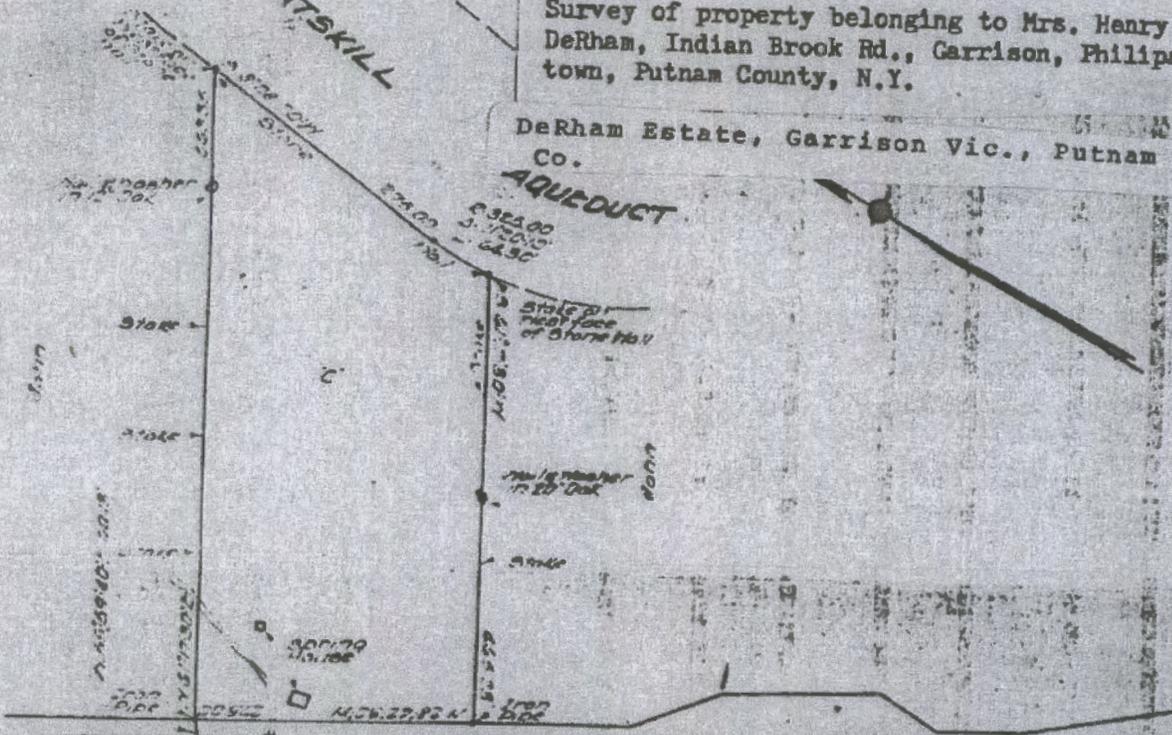
De RHAM PROPERTY

*[Faint, illegible text]*

*[Handwritten signature]*

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DeRham Estate, Garrison Vic., Putnam Co.

STATE HIGHWAY ROUTE

SURVEY OF PROPERTY  
SITUATE IN THE  
TOWN OF PHILIPSTOWN  
PUTNAM COUNTY  
TO BE CONVEYED TO  
H. L. BALDWIN JR.

Survey of property belonging to Mrs. Elaine  
Baldwin, Ladies Brook Rd., Garrison, Philip-  
stown, Putnam County, N.Y.

Frame of Stone Building

Part Cellar

Down Power  
10 Story  
Frame  
Cellar  
2-Line Power

COLDSRING

GARRISON

HIGHWAY

ILLIGAN + NICE PROPERTIES

Survey of properties belonging to Donald and Sandra Nice and to Michael and Sonja Gilligan, Indian Brook Rd., Garrison, Phillipstown, Putnam County, N.Y.

Derham Estate, Garrison Vic., Putnam Co.

# 3575

WILLIAM D. J. GILLIGAN  
P. & S.

586° 51' 00" W 575.77

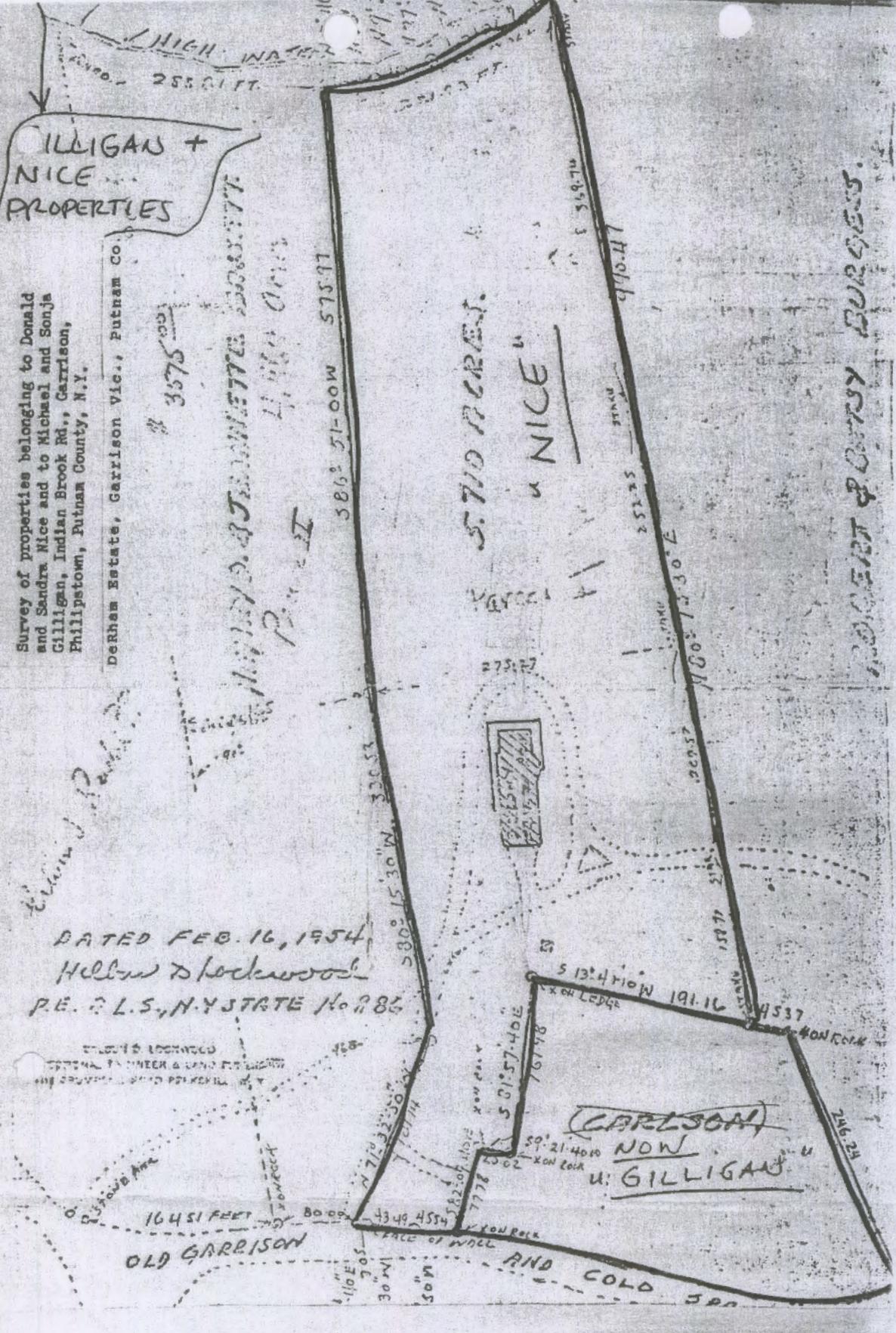
5.710 ACRES.

NICE

ROBERT & CATY BURGESS

DATED FEB. 16, 1954  
Helen D. Lockwood  
P.E. & L.S., N.Y. STATE No. 286

THIS IS LOCKWOOD  
CIVIL ENGINEER & LAND SURVEYOR  
THE SURVEYING BOARD PROVED ME



CARLSON  
NOW  
W. GILLIGAN

**PHAM FARM, Garrison, Putnam Cty., N.Y.**

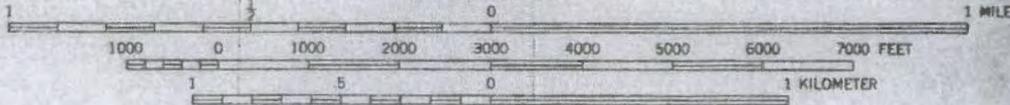
- References--**
- |                      |                      |
|----------------------|----------------------|
| A: 18/588670/4584020 | G: 18/589260/4584060 |
| B: 18/588960/4584110 | H: 18/589070/4583980 |
| C: 18/588970/4584150 | I: 18/589030/4584020 |
| D: 18/589040/4584190 | J: 18/588980/4584050 |
| E: 18/588980/4584310 | K: 18/588680/4583980 |
| F: 18/589080/4584350 |                      |



166 600 000 FEET 57'30" 588 (PEEKSKILL) 6266 IV SW 190 55

BEAR MTN. BRIDGE (JUNC. U.S. 6 & 202) 4.4 M

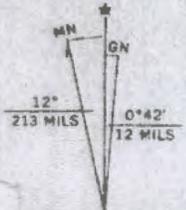
SCALE 1:24 000



CONTOUR INTERVAL 20 FEET

DATUM IS MEAN SEA LEVEL

DEPTH CURVES AND SOUNDINGS IN FEET—DATUM IS MEAN LOW WATER  
SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER  
THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.7 FEET



UTM GRID AND 1957 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U. S. GEOLOGICAL SURVEY, WASHINGTON, D. C. 20242  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



**ZARIN &  
STEINMETZ**

David J. Cooper  
 Jody T. Cross •  
 Michael J. Cunningham •  
 Marsha Rubin Goldstein  
 Helen Collier Mauch •  
 Zachary R. Mintz •  
 Matthew R. Pisciotta •  
 Daniel M. Richmond  
 Brad K. Schwartz  
 Lisa F. Smith •  
 David S. Steinmetz •  
 Michael D. Zarin

July 22, 2016

**Via Overnight Mail and Email to the Zoning Board of Appeals Secretary**

• Also admitted in D.C.  
 • Also admitted in CT  
 • Also admitted in NJ

Chairman Robert Dee and  
 the Members of the Zoning Board of Appeals  
 of the Town of Philipstown  
 Town of Philipstown Town Hall  
 238 Main Street  
 P.O. Box 155  
 Cold Spring, NY 10516

**Re: Special Use Permit Application for 51 Indian Brook Road (49.-1-17)**

Dear Chairman Dee and Members of the Zoning Board of Appeals:

As you know, this firm represents Sandra, Don, and Brian Nice, who live immediately adjacent to the above-referenced site (the "Site") at 73 Indian Brook Road in Garrison (the "Nice Property"). Respectfully, your Board lacks sufficient information at this time to render a rational determination on the above-referenced application (the "Application") under either the Special Use Permit criteria of the Town of Philipstown Code or the New York State Environmental Quality Review Act ("SEQRA"). In addition to the issues set forth in our letter dated July 11, 2016, the deficiencies affecting the Application include that neither your Board nor the impacted neighbors have had the opportunity to review the applicant's (the "Applicant") proposed landscaping plan, proposed lighting plan, or its plan for diverting stormwater away from the Nice Property. Ultimately, it appears that addressing the Project's adverse impacts will require, in addition to significant landscaping, lowering the Project's height.

By way of background, as you will recall, at the July 11, 2016 Hearing, your Board directed the Applicant to prepare and submit for review: (i) plans showing landscaping along the property line with the Nice Property including a maintenance plan; and (ii) the lighting plan for the property. In addition, Mr. Watson at the July 11<sup>th</sup> Public Hearing stated that he would create a plan that would divert stormwater away from the Nice Property. As of the writing of this letter, however, none of these plans still have been provided to the Board. Consequently, neither your Board nor the Nice Family has had the opportunity to review these critical plans.

Tel: (914) 682-7800  
 Fax: (914) 683-5490

81 Main Street, Suite 415  
 White Plains, New York 10601

**RECEIVED**  
 JUL 22 2016  
 www.zarin-steinmetz.com  
 BY: *[Signature]*

**EXHIBIT #** 29

**Application Incomplete;  
Significant Mitigation Required**

As correctly noted by the letter to your Board from the State Department of Parks, Recreation and Historic Preservation, the Project constitutes a Type I Action under SEQRA. (See Letter to Robert Dee, ZBA Chair from John A. Bonafide, Director, Technical Preservation Services Bureau, dated July 14, 2016 (copy annexed hereto for your convenience)); see also 6 N.Y.C.R.R. § 617.4(a). SEQRA establishes that any unlisted Action, such as the instant Special Permit Application, that is “substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places” is a Type I Action. 6 N.Y.C.R.R. § 617.4(b)(9). The Site is located adjacent to the Nice Property, which is on the National Register of Historic Places. Thus, the Project is a Type I Action.

Even if the Project were not a Type I Action, an environmental impact statement (“EIS”) would be mandated because the Project surpasses the established “low threshold” triggering the obligation to prepare an EIS. See Village of Tarrytown v. Planning Board of Sleepy Hollow, 292 A.D.2d 617, 741 N.Y.S.2d 44, 48 (2d Dept. 2002) (“SEQRA mandates the preparation of an EIS when a proposed project ‘may have a significant effect on the environment.’ Because the operative word triggering the requirement of an EIS is ‘may’, there is a relatively low threshold for the preparation of an EIS.” (citations omitted)). The Type I designation, however, signifies that the Project *presumptively* requires an EIS in order to assure that its potential significant adverse impacts are avoided or mitigated to the maximum extent practicable, as SEQRA requires. See 6 N.Y.C.R.R. § 617.4(a); see also Village of Tarrytown, 741 N.Y.S.2d at 48 (stating that the “SEQRA regulations provide that a Type I action . . . carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS.” (citation omitted)).

Of relevance to the Board’s consideration of landscaping for the Project, it is established that the environmental concerns covered by SEQRA include aesthetic impacts and potential impacts upon community characteristics. See WEOK Broadcasting Corp. v. Planning Bd. of Lloyd, 79 N.Y.2d 373, 583 N.Y.S.2d 170, 173 (1992) (“Aesthetic considerations are a proper area of concern in this balancing analysis inasmuch as the Legislature has declared that the ‘maintenance of a quality environment . . . that at all times is healthful and *pleasing to the senses*’ is a matter of State-wide concern.” (quoting N.Y. Env’tl. Conserv. L. § 8-0103[1], emphasis is the original)); see also Town Code §§ 175-63(B)(7) & (8) (establishing as criteria for the issuance of a Special Permit that the Site be suitable, including with respect to “its ability to be buffered and screened from neighboring properties,” and not adversely impact designated historic resources within the Town).

Respectfully, your Board cannot conclude the environmental review process because landscaping and stormwater management plans still have not been provided to your Board. An EIS must be prepared unless the Applicant advances plans that “clearly negate” the Project’s “continued potentiality” to cause significant adverse impacts. Merson v. McNally, 90 N.Y.2d 742, 665 N.Y.S.2d 605, 611 (1997).

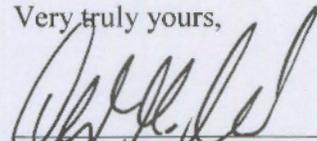
Ultimately, it would appear that mitigating the Project's impacts will require, in addition to significant landscaping, lowering the Project's height. In addition, the proposed porch, which will face the Nice Property, must be closely scrutinized to ensure that it does not cause undue light and/or noise impacts.

Moreover, the Nice family must be provided a reasonable opportunity to review and comment upon the Applicant's landscaping and stormwater management plans. See Merson, 665 N.Y.S.2d at 611 ("A SEQRA review process conducted through closed bilateral negotiations between an agency and a developer would bypass, if not eliminate, the comprehensive, open weighing of environmentally compatible alternatives both to the proposed action and to any suggested mitigation measures."). It is particularly important that the Nice family be provided an opportunity to review these plans under the circumstances. As discussed at the July 11<sup>th</sup> Public Hearing, the Project is proposed for a location in close proximity to a watercourse in immediate proximity to the Nice Property line.<sup>1</sup> There are dead trees in this area, and many plants may not be able to survive in the oversaturated soil.

Until these plans are submitted and the impact public provided with a reasonable opportunity to comment upon them, respectfully, the Public Hearing must remain open.

We continue to look forward to working with the Board in its consideration of the Project. Please let us know if you would like us to amplify or further explain the principles set forth in this letter, or should your Board have any questions.

Very truly yours,

  
\_\_\_\_\_  
Daniel M. Richmond  
Michael J. Cunningham

DMR/mth

Enc.

Cc: The Nice Family  
Adam Rodd, Esq.

---

<sup>1</sup> We have reviewed the Short Environmental Assessment Form ("EAF") dated July 11, 2016 submitted by the Applicant, and uncovered numerous errors. There is, for example, a regulated watercourse pursuant to Section 93-4 of the Philipstown Code, so the answers to questions 13(a) and (b) should be yes. Similarly, because there is a watercourse located within 100 feet of the driveway/road being built, a permit pursuant to Chapter 93 of the Code is required, and this should be included in the answer to question 2 of the EAF.



## Town of Philipstown

Zoning Board of Appeals  
238 Main Street, PO Box 155  
Cold Spring, NY 10516

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

July 22, 2016

Ms. Barbara Barosa:

Enclosed please find application submissions for a 239m referral for the reason that the premises is located within 500 feet from NYS Route 9D. Our Applicant is Stephen C. Flavin Tax Map Number 49.-1-17 located at 51 Indian Brook Road, Garrison. Appeal number 894. Mr. Flavin is before the Town of Philipstown Zoning Board of Appeals for a Special Permit. The Applicants lot is in the RC Zone which requires a 10 Acre minimum. The applicant has a 9.02 acre lot, which is legally nonconforming. It is this legally nonconforming status that triggers the need for a Special Permit.

A public hearing was held On June 13, 2016. It was continued on July 11, 2016 and will continue again on July 25, 2016.

Thank you,

Linda Valentino  
Town of Philipstown  
Zoning Board of Appeals Secretary

RECEIVED  
JUL 22 2016  
BY: *R*

EXHIBIT #

28



Putnam County  
Department of Planning, Development,  
and Public Transportation

www.putnamcountyny.com

Sandra M. Fusco  
Deputy Commissioner

841 Fair Street  
Carmel, NY 10512

Phone: (845) 878-3480

Fax: (845) 808-1948

SECTION 239 CASE REFERRAL

Case Received:  Report Required:  Completed:

Application Name:  Referral #:

TOWN: Carmel:  Philipstown:  VILLAGE: Brewster:   
Kent:  Putnam Valley:  Cold Spring:   
Patterson:  Southeast:  Nelsonville:

Referred by: PB:  ZBA:  Town Board:  Historic District Review Board:

Location of Project:

Present Zone:  Tax Map #:

Type of action: Variance:  Zoning Ordinance:  Master Plan:   
Subdivision:  Special Use Permit:  Subdivision Regulations:   
Site Plan:  Rezoning:  Certificate of Appropriateness:   
Zoning Amendment:

**DECISION BY COUNTY:**

Approved as Submitted:  Modification:  Disapproved:

Basis for Decision Other than Approval:

Reviewed by Barbara Barosa Barbara Barosa, Planner  
(Signature) (Title)

rc 1-14/word

RECEIVED  
AUG 12 2016  
BY: N  
EXHIBIT # 39



445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
T 914 761 1300  
F 914 761 5372  
cuddyfeder.com

Lucia Chiochio  
lchiochio@cuddyfeder.com

August 29, 2016

**BY HAND**

Hon. Robert Dee, Chairman  
And Members of the Zoning Board of Appeals  
Town of Philipstown Town Hall  
238 Main Street  
P.O. Box 155  
Cold Spring, NY 10516

Re: Special Permit Application – Supplemental Submission  
Minor Accessory Structure  
Premises: 51 Indian Brook Road, Garrison, New York 10524 (SBL: 49.-1-17)

Dear Chairman Dee and Members of the Zoning Board of Appeals:

This letter and attachments are respectfully submitted on behalf of our client, Mr. Stephen Flavin (the "Applicant"), the owner of the above-referenced Premises, in furtherance of his Special Permit Application for a proposed modest accessory structure on his 9.2 acre parcel. This supplemental submission is prepared in response to the comments raised by the owners of 73 Indian Brook Road, which the Applicant has worked diligently to address.

For the reasons set forth herein, we respectfully submit that the record for this complete Application demonstrates compliance with all applicable Special Permit criteria for the proposed minor accessory structure and that the Applicant has more than sufficiently addressed the public comments during the Public Hearings held on June 13<sup>th</sup>, July 11<sup>th</sup> and July 25<sup>th</sup>. Moreover, it is respectfully submitted that the proposed minor accessory structure is a Type II action under the SEQRA Regulations Section 617.5(c)(10) as set forth in detail in our July 25<sup>th</sup> submission, requiring no further environmental review. Thus, we request that the Board close the Public Hearing, and in consideration of this Board's detailed review of the Applicant's submissions and comments from the Town's staff, render a decision in favor of the Application at this Board's regular meeting on Monday, September 12, 2016.

EXHIBIT # 41

RECEIVED  
AUG 29 2016

BY: K

**I. The Driveway Location To Access The Accessory Structure Will Not Have A Negative Impact On Adjacent Property.**

**A. In Addition To Existing Dense Vegetation, The Proposed Screening Trees Adequately Screen The Minor Accessory Structure**

In an effort to address the neighbors' concerns regarding this minor residential accessory structure, the Applicant spared no expense, hiring a Surveyor and Landscape Architect; meeting with the owners of 73 Indian Brook Road on July 23<sup>rd</sup> to review the proposal and landscaping plan; reviewing the Nices' suggested plantings and revising the detailed landscaping and screening plan to address their concerns. In addition, following the July 25<sup>th</sup> Public Hearing, our office has been in communication with the Nices' attorney concerning the Applicant's additional updates to the landscaping and screening on the Premises in response to the neighbors' comments. A copy of this correspondence is also being transmitted to the Nices' attorney, well in advance of the continued public hearing, consistent with our discussions to date.

Accordingly, for this Board's review and consideration, please find enclosed a copy of the updated Grading & Planting Plan, which includes sight lines as well as the updated screening trees. Following the July 25<sup>th</sup> Public Hearing, the Nices forwarded a list of suggested plantings. The Applicant's Landscape Architect evaluated the Nices' suggested plantings to determine the best species of trees to be located in the landscape buffer to ensure longevity and healthy growing trees. As detailed in the enclosed Memo prepared by Glennon J. Watson, L.S. and Mary C. Rice, R.L.A., (the "Memo") the several Walnut trees on the Premises require careful evaluation of the proposed plantings. Walnut trees produce a chemical that can be lethal to plants and trees that are sensitive to it. The revised landscaping plan includes plantings from the neighbors' suggested list that are tolerant of this chemical to best handle the conditions on the Premises.

It is respectfully submitted that the proposed species of trees, identified by the Applicant's Landscape Architect, address the neighbors' concern, further ensuring that the trees planted are best suited for the Premises to provide for additional screening along the proposed driveway.

**B. The Existing Dense Vegetation As Well As The Proposed Landscaping Will Not Result in Any Impacts from Headlights to the Adjacent Property**

For this Board's consideration, please find enclosed a CD-Rom, which includes a video that was recorded by the Applicant on the Premises, while the Applicant drove a vehicle down his property in the location of the proposed driveway.<sup>1</sup> As shown on the enclosed videos, the existing conditions on the Premises includes dense vegetation between the Applicant's Premises and the property located at 73 Indian Brook Road, which effectively blocks any headlights from the adjacent property. The videos also demonstrate that car headlights will be focused down on the driveway and will not illuminate the surrounding area. For the Board's convenience, we will plan to play these short videos at the September 12<sup>th</sup> hearing.

The complete screening provided by the existing dense vegetation and proposed plantings is also demonstrated on the sight lines included on the Grading & Planting Plan. The sight lines clearly show that any car headlights, which will be located more than 200 feet from the house on the adjacent property, will be blocked by existing and proposed trees and plantings. It is also noteworthy that the proposed accessory structure will have very limited vehicle trips along the proposed driveway. Moreover, as discussed at the July 25<sup>th</sup> Public Hearing, the Applicant adjusted the location of the accessory structure, specifically the entry to the garage, so as to further limit any potential vehicle headlight glare.

**C. Relocation of the Driveway is Not Warranted and Would Result in Greater Impacts than the Proposed Driveway Location.**

As detailed in the enclosed Memo, relocating the driveway as suggested by the neighbors will result in unnecessary disturbance, impacts to slopes and impacts to drainage. Further, as demonstrated herein and in the record for this Application, the proposed location of the driveway will not result in any adverse impacts to the neighboring property. Thus, relocation of the driveway is not warranted.

**II. Conclusion.**

For all of the reasons discussed above, and as set forth in our correspondence to the Board dated July 25, 2016, we respectfully submit that the complete Application record demonstrates that the requested Special Permit meets all of the applicable criteria for approval. The Applicant proposes

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<sup>1</sup> Note: There are three (3) total videos included on the enclosed CD-Rom, attached hereto as Exhibit A, which show the vehicle's headlights at different hours of the day to show no impact to adjacent property.

a modest accessory structure, which has been modified to address comments received from this Board and the adjacent property owners, including a detailed landscaping and screening plan. The record also demonstrates that the proposed accessory structure will not have any significant adverse environmental impacts.<sup>2</sup> In addition, it is noteworthy that but for the fact that the Premises is slightly under 10 acres in size, the proposed accessory structure would be permitted as-of-right.

Accordingly, we respectfully request that this Board issue a favorable decision at the regular meeting on Monday, September 12, 2016.

In support of the Special Permit Application, please find attached:

- Exhibit A: CD-Rom With Video Footage of Vehicle Traveling Along Proposed Driveway Location Without Headlight Impacts to Adjacent Property.
- Exhibit B: Memo prepared by Glennon J. Watson, L.S. and Mary C. Rice, R.L.A. dated August 26, 2016

Please also find enclosed, a revised Grading & Planting Plan and Survey of Property, prepared by Badey & Watson Surveying & Engineering, PC, last dated August 26, 2016.

---

<sup>2</sup> In accordance with the Applicant's July 25<sup>th</sup> submission, it is again respectfully submitted that the Applicant's Special Permit application is a Type II Action under the SEQRA Regulations section 617.5(c)(10), since it consists of "construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density." The proposed action consists of the construction of a minor 1,132 square-foot accessory garage with an 800 square-foot accessory apartment. The proposed minor accessory structure conforms with zoning as accessory apartments are permitted and are not counted as a dwelling unit for the purposes of determining density. The proposed minor accessory structure requires no variances and is consistent with land use controls. Thus, it is respectfully submitted that the proposed minor accessory structure will not result in any adverse impacts.



August 29, 2016  
Page -5-

Thank you for your consideration in this matter. We look forward to appearing at the September 12, 2016 meeting of this Board.

Very truly yours,

A handwritten signature in blue ink that reads "Lucia Chiochio". The signature is written in a cursive, flowing style.

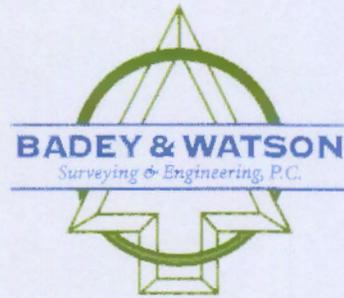
Lucia Chiochio

cc: Adam L. Rodd, Esq. – Attorney to the Zoning Board of Appeals  
Stephen C. Flavin  
Glennon J. Watson, L.S., Badey & Watson  
Daniel Richmond, Esq. (via overnight mail)  
Taylor M. Palmer, Esq.

Exhibit A

**CD-ROM - With Video Footage of Vehicle Traveling Along Proposed Driveway  
Location Without Headlight Impacts to Adjacent Property.**

# Memo



To: Lucia Chioocchio, Esq.  
From: Glennon J. Watson, L.S., Mary C. Rice, R.L.A.  
CC: Stephen C. Flavin  
Date: August 26, 2016  
Re: Special Use Application of Stephen Flavin

Dear Ms. Chioocchio,

Enclosed for your submission to the Philipstown Zoning Board of Appeals are:

- 12 prints of our *Grading and Planting Plan prepared for Stephen Flavin*, last revised August 26, 2016
- 12 prints of our *Survey of Property prepared for Stephen C. Flavin*, last revised August 26, 2016
- 12 copies of this memo which includes a summary of our findings regarding:
  - The feasibility of rerouting the driveway to the cottage to the north of the Proposed Garage with Accessory Apartment;
  - Summary of our analysis of the various plant material substitutions suggested by the Nices, including the reasons the suggested substitutions were or were not made;
  - Portions of the Landscape Plan showing the changes and highlighting the plants that have been changed;
  - Literature from 3 university websites supporting our reasons for avoiding Black Walnut intolerant species; and
  - Deer Fencing Specifications.

## RELOCATION OF THE DRIVEWAY

The following reasons fully support the proposed location of the driveway. The information below demonstrates why the driveway should not be relocated as suggested.

**Steep Slopes** - There is a band of steep slopes that must be crossed to reach the rear of the property. It spans the entire property from north to south. The existing driveway that Mr. Flavin proposes to utilize crosses the steep slopes in an area where it is most gentle. This is almost certainly why it was built at that location. Any other route will result in construction on steeper slopes, which should be avoided.

**Septic System** - The septic system, which is now shown on the survey, lies at the base of the band of steep slopes at a location that will make designing a new driveway difficult and the result less than ideal. The septic system must be avoided by no less than 10 feet.

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EXHIBIT # 42

BY: X

**Curtain Drain** - Mr. Flavin reported to us that there is a curtain drain that captures ground water and carries it around and away from the septic system. The drain crosses any alternate driveway route that is chosen and will, at the very least, complicate construction.

**Existing Natural Plant Material** – Any alternate route will require the unnecessary removal of existing mature plant material.

**Drainage Swale** – An alternate route that runs north of the main house will necessarily interfere with what appears to be a natural route for stormwater. Such interference is not advisable.

**Unnecessary Disturbance** – Building a new driveway to the north of the proposed garage will require unnecessary disturbance of land, which should be avoided. This is especially true on steep slopes where the grading of the side slopes of a driveway is usually wider.

As stated above, relocation of the driveway is not advisable and should be avoided.

## REVISIONS TO PLANTING PLAN

### Analysis of Trees and Shrubs List from Nice for potential substitutions for screening:

Norway Spruce- Exotic, not tolerant of Black Walnut\*

Thuja Occidentalis "Elegantissima" - Elegantissima Arborvitae;- Not effective for screening in this situation: smaller mature size- narrow: 4-5'Wide, 10-15' Tall.

Thuja Occidentalis "Atrovirens" – Atrovirens Arborvitae;- Most likely- Thuja plicata 'Atrovirens'. Not commonly available. Soils must be well drained.

Thuja "Green Giant" – Green Giant Arborvitae: = Thuja standishii x plicata 'Green Giant' - Cross between Exotic variety and variety native to West Coast. 50-60' T, 12-20'W.

Cryptomeria Japonica "Yoshino" – Yoshino Japanese Cedar: Exotic, Browning in winter, Drought intolerant/need irrigation for drought, not tolerant of Black Walnut.

Abies Cephalonica – Greek Fir;- Exotic, Not commonly available, If available-expensive specimen, not tolerant of Black Walnut.

Abies Vietchi – Vietch Fir;- Exotic, Not commonly available, If available-expensive specimen, soils must be well drained, not tolerant of Black Walnut.

Chamaecyparis Obtusa – Hinoki False Cypress;- 5'-8' tallest commonly available, slow, expensive, soils must be well drained, not tolerant of Black Walnut.

Chamaecyparis Pisifera- Sawara False Cypress- Not commonly available/rare, 3-4' sometimes, soils must be well drained, not tolerant of Black Walnut.

### Shrubs

Boxwoods- Not effective for screening in this situation -small, slow growing; large-very expensive, not tolerant of Black Walnut.

Andromeda- Not effective for screening in this situation -small, slow growing, not tolerant of Black Walnut, Exotic.

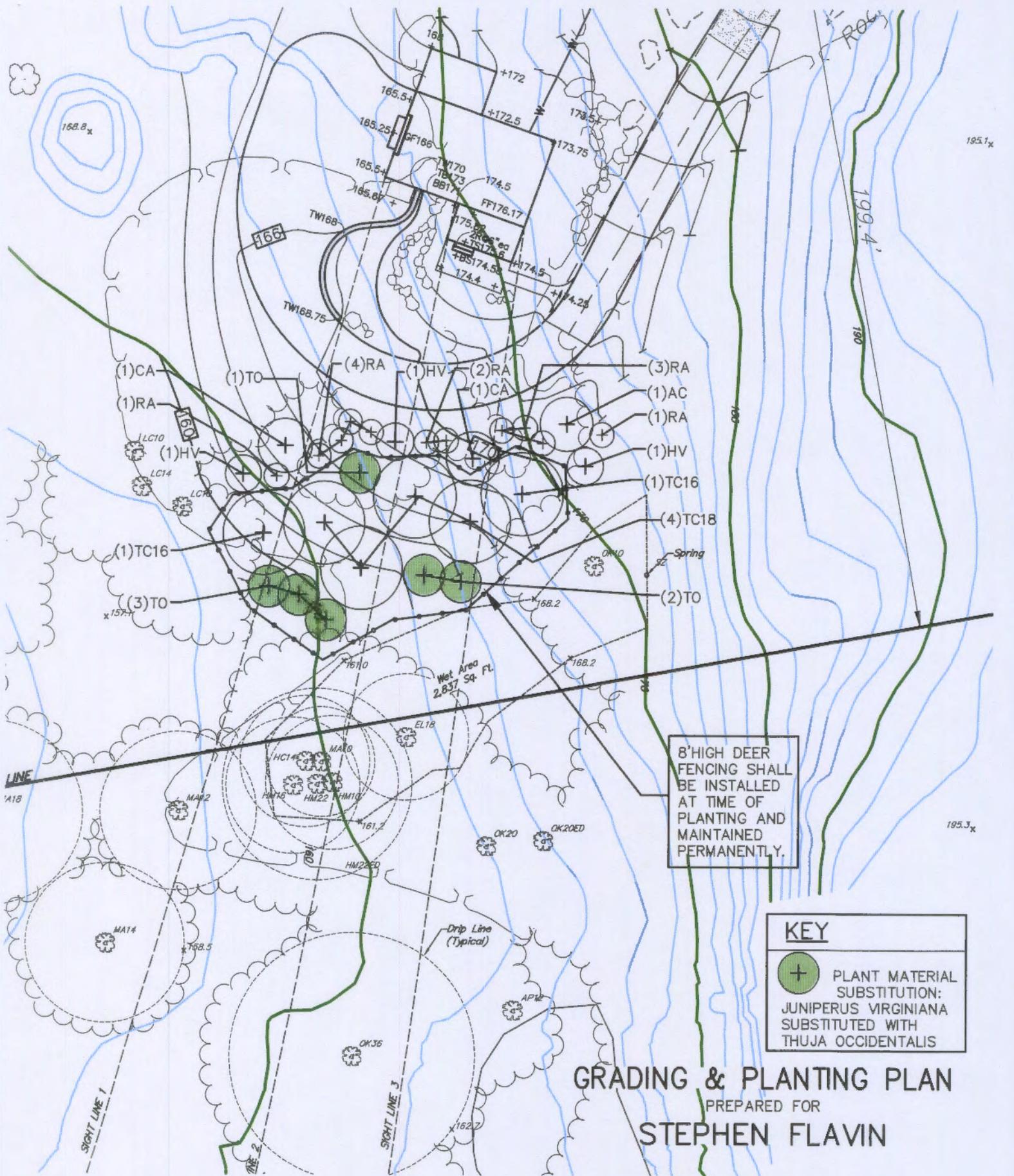
\*Note: The comment "not tolerant of Black Walnut" is based on the omission of the particular plant from multiple university extensions and arboretum websites which provide recommendations for plant material which is tolerant of being planted near Black Walnut.

Summary:

Each plant on the list above was reviewed for its physical characteristics, effectiveness for screening, its cultural requirements (sun/shade, tolerance to moisture/drought, etc.), availability for purchase from area nurseries and comparative pricing, its native status, and its tolerance to being planted near Black Walnuts. The existing site has numerous Black Walnut trees of various sizes from seedlings to mature trees. These trees produce the chemical juglone. It is found in the buds, leaves, nuts, hulls and roots. Plants that are sensitive to juglone will ultimately wilt and die over time. Juglone toxicity may persist in the soil for years after a Black Walnut tree is removed. Preference in the choice of plant material has been given to those species that are tolerant of Black Walnuts, are native to the northeast, provide good screening effectiveness and will have good survival potential given the site conditions.

Action taken: Substituted *Juniperus virginiana* (20-50'T X 10-15'W) with *Thuja occidentalis* (30-50'T X 8-25'W). *Thuja occidentalis* is the straight form of two *Thuja*'s from the Nice's list above. The straight species has similar texture and form, is native, has matching cultural requirements and has an appropriate mature size for screening effectiveness.





8' HIGH DEER FENCING SHALL BE INSTALLED AT TIME OF PLANTING AND MAINTAINED PERMANENTLY.

**KEY**

⊕ PLANT MATERIAL SUBSTITUTION: JUNIPERUS VIRGINIANA SUBSTITUTED WITH THUJA OCCIDENTALIS

**GRADING & PLANTING PLAN**  
 PREPARED FOR  
**STEPHEN FLAVIN**





## Landscaping and Gardening Around Walnuts and Other Juglone Producing Plants

Walnuts and hickories produce the chemical juglone (5 hydroxy-1,4-naphthoquinone), which is exuded from all parts of the plant. The greatest concentration of juglone and hydroxyjuglone (a nontoxic, colorless precursor that is converted into the toxic form juglone by sensitive plants and through oxidation) is found in the vegetative buds, leaves, stems, nut hulls, and roots of the plants.

Walnuts and hickories produce the chemical juglone (5 hydroxy-1,4-naphthoquinone), which is exuded from all parts of the plant. The greatest concentration of juglone and hydroxyjuglone (a nontoxic, colorless precursor that is converted into the toxic form juglone by sensitive plants and through oxidation) is found in the vegetative buds, leaves, stems, nut hulls, and roots of the plants. Black walnut (*Juglans nigra*) and butternut (*Juglans cinerea*) are the landscape plants most recognized by gardeners as being problems for their other plants. However, English or Persian walnut (*J. regia*) and hickories (*Carya*) also produce juglone but to a lesser degree.

The production of juglone is a protective response by the plant to assure its survival. Many plants (e.g., sugar maple, tree of heaven, hackberries, sycamore, cottonwood, black cherry, red oak, black locust, sassafras, fine fescue, and American elm) produce allelochemicals to enhance their survival and reproduction by inhibiting nearby competition. The most common symptoms of juglone sensitivity in landscape and garden plants is the yellowing and wilting of leaves, especially during the hot dry periods during the growing season, ultimately resulting in wilting and death of the plant.

Juglone-induced wilting and wilting due to water stress are often confused. Wilting due to lack of water occurs slowly and can be reversed with watering. Juglone-induced wilting often occurs rapidly even when ample soil moisture is present. Juglone-induced wilting may be partial or may encompass the whole plant. Early wilting symptoms may also be reduced with supplemental water. Later in the season wilting does not respond to additional water, leaves start to brown, and the plant dies. Experimental studies have shown that juglone inhibits plant respiration,

depriving sensitive plants of needed energy and cell division as well as water and nutrient uptake.

Sensitive plants located beneath the canopy of a walnut tree are most susceptible to contact with juglone through direct root contact or accumulation of the toxin from leaves and nut hulls in poorly aerated, wet soils with limited microbial activity and organic matter. Juglone is poorly soluble in water and does not move very far in the soil. Well-drained and aerated soils with a healthy population of microbes can accelerate the metabolic decomposition of juglone. Where sensitive plants may survive outside of the canopy of a black walnut, highly sensitive plants may not tolerate small concentrations where decaying roots from a removed tree may still be releasing juglone. Juglone toxicity may persist for years after a tree is removed. So, impatience in replanting an area with juglone-sensitive plants is not advised.

## Planting around Walnuts

Understanding the site to be landscaped or developed into a garden is the first step in assuring successful plantings. Identifying your trees and shrubs will help avoid problems with allelopathic toxicity among your future landscape and garden plantings. General tips for planting around black walnuts include:

- Locating gardens well away from black walnuts.
- Creating and plant in raised beds to reduce root contact. This will require lining the bed to reduce root contact using weed fabric and filling the raised bed with new topsoil.
- Improving soil drainage with organic matter additions.
- Preventing leaves, hulls, and stems from decomposing near planting areas.
- Avoiding mulch containing walnut bark, wood, hulls, and leaves

## Plant Tolerance to Juglone

The following lists of plants tolerant to juglone were compiled from published sources. They are based on observation under various settings, but few plants have been experimentally tested for sensitivity to juglone. Many factors affect sensitivity, including level of contact, health of the plant, soil environment, and the overall site conditions. The lists provided here are strictly guides and cannot be considered complete or definitive.

### Trees Tolerant to Juglone

- Most maples except silver maple (*Acer* spp)
- Eastern Red Cedar (*Juniperus virginiana*)

- ▣ Ohio Buckeye (*Aesculus glabra*)
- ▣ Goldenrain Tree (*Koelreuteria paniculata*)
- ▣ Serviceberry, Shadblow (*Amelanchier*)
- ▣ Sweetgum (*Liquidambar styraciflua*)
- ▣ Pawpaw (*Asimina triloba*)
- ▣ Yellow Poplar (*Liriodendron tulipifera*)
- ▣ River Birch (*Betula nigra*)
- ▣ Black Gum (*Nyssa sylvatica*)
- ▣ Hickory (*Carya* spp)
- ▣ Virginia Pine (*Pinus virginiana*)
- ▣ Catalpa (*Catalpa bignoniodes*)
- ▣ Sycamore (*Platanus occidentalis*)
- ▣ Eastern Redbud (*Cercis canadensis*)
- ▣ Black Cherry (*Prunus serotina*)
- ▣ Fringetree (*Chionanthus* spp.)
- ▣ Callery Pear (*Pyrus calleryana*)
- ▣ Flowering Dogwood (*Cornus florida*)
- ▣ Oak species (*Quercus* spp)
- ▣ Dogwood (*Cornus alternifolia*)
- ▣ Staghorn Sumac (*Rhus typhina*)
- ▣ Hawthorne (*Crataegus* spp)
- ▣ Black Locust (*Robinia pseudoacacia*)
- ▣ Persimmon (*Diosypros virginiana*)
- ▣ Sassafras (*Sassafras albidum*)
- ▣ American Beech (*Fagus grandifolia*)
- ▣ Arborvitae (*Thuja occidentalis*)
- ▣ White Ash (*Fraxinus americana*)
- ▣ Canada Hemlock (*Tsuga Canadensis*)
- ▣ Honeylocust (*Gleditsia triacanthos*)
- ▣ American Elm (*Ulmus americana*)

- ▣ Carolina Silverbell (*Halesia caroliniana*)
- ▣ Blackhaw Viburnum (*Viburnum prunifolium*)

### Shrubs Tolerant to Juglone

- ▣ Barberry (*Berberis* spp)
- ▣ Hazelnut (*Corylus americana*)
- ▣ Daphne (*Daphne* spp)
- ▣ Forsythia (*Forsythia* spp)
- ▣ Witchhazel (*Hamamelis* spp)
- ▣ Rose of Sharon (*Hibiscus syriacus*)
- ▣ Snowball Hydrangea (*Hydrangea arborescens*)
- ▣ St. Johnswort (*Hypericum prolificum*)
- ▣ American Holly (*Ilex opaca*)
- ▣ Juniper (*Juniperus* spp)
- ▣ Spicebush (*Lindera benzoin*)
- ▣ Mockorange (*Philadelphus* spp)
- ▣ Exbury Hybrid Azalea “Gibraltar” & “Balzac”
- ▣ Pinxterbloom Azalea (*Rhododendron periclymenoides*)
- ▣ Sumac (*Rhus copallina*)
- ▣ Smooth Sumac (*Rhus glabra*)
- ▣ Current (*Ribes* spp)
- ▣ Black Raspberry (*Rubus occidentalis*)
- ▣ Elderberry (*Sambucus Canadensis*)
- ▣ Maple-leaved Viburnum (*Viburnum acerifolia*)
- ▣ Koreanspice Viburnum (*Viburnum carlesii*)

### Vegetables Tolerant to Juglone

- ▣ Onion
- ▣ Beets
- ▣ Squash and Melons
- ▣ Carrot

- Parsnips
- Beans
- Corn

### **Fruit Trees Tolerant to Juglone**

- Cherry, Nectarine, Plum, Peach (*Prunus* spp)
- Quince (*Cydonia oblongata*)

### **Vines Tolerant to Juglone**

- Clematis (*Clematis* spp)
- Virginia Creeper (*Parthenocissus quinquefolia*)
- Wild Grape (*Vitis*)
- Wisteria (*Wisteria* spp)

### **Herbaceous Flowers Tolerant to Juglone**

- Yarrow (*Achillea* spp)
- Hosta (*Hosta* spp)
- Bugleweed (*Ajuga reptans*)
- Spanish Bluebell (*Hyacinthoides hispanicus*)
- Hollyhock (*Alcea rosea*)
- St. John's Wort (*Hypericum* spp)
- Anemone (*Anemone* spp)
- Morning Glory (*Ipomoea* spp)
- Jack-in-the-Pulpit (*Arisaema triphyllum*)
- Iris (*Iris* spp)
- European Wild Ginger (*Asarum europaeum*)
- Shasta Daisy (*Leucanthemum x superbum*)
- Aster (*Aster* spp)
- Liriope or Lilyturf (*Liriope* spp)
- Astilbe (*Astilbe* spp)
- Lobelia (*Lobelia* spp)
- Fibrous and Tuberous Begonia (*Begonia*)

- Virginia Bluebell (*Mertensia pulmonariodes*)
- Pot Marigold (*Calendula officinalis*)
- Bee Balm (*Monarda* spp)
- Bellflower (*Campanula latifolia*)
- Grape Hyacinth (*Muscari botryoides*)
- Glory of the Snow (*Chionodoxa lucilae*)
- Daffodil (*Narcissus* spp)
- Chrysanthemum (*Chrysanthemum* spp)
- Primrose and Sundrops (*Oenothera* spp)
- Spring Beauty (*Claytonia virginica*)
- Cinnamon Fern (*Osmunda cinnamomea*)
- Crocus (*Crocus* spp)
- Phlox (*Phlox paniculata*)
- Dutchman's Breeches (*Dicentra cucullaria*)
- Mayapple (*Podophyllum peltatum*)
- Bleeding Heart (*Dicentra* spp)
- Jacob's Ladder (*Polemonium reptans*)
- Leopard's Bane (*Doronicum* spp)
- Solomon's Seal (*Polygonatum commutatum*)
- Crested Wood Fern (*Dryopteris cristata*)
- Christmas Fern (*Polystichum acrostichoides*)
- Purple Coneflower (*Echinacea purpurea*)
- Primrose (*Primula* spp)
- Epimedium (*Epimedium* spp)
- Lungwort (*Pulmonaria* spp)
- Winter Aconite (*Eranthis hyemalis*)
- Bloodroot (*Sanguinaria canadensis*)
- Dog's Tooth Violet (*Erythronium* spp)
- Siberian or Blue Squill (*Scilla siberica*)
- Snowdrop (*Galanthus nivalis*)

- Stonecrop (*Sedum acre*, *Sedum spectabile*)
- Sweet Woodruff (*Galium odoratum*)
- Lamb's Ear (*Stachys byzantia*)
- Gentian (*Gentian spp*)
- Meadowrue (*Thalictrum spp*)
- Cranesbill Geranium (*Geranium sanguineum*)
- Spiderwort (*Tradescantia virginiana*)
- Sunflower and Jerusalem Artichoke (*Helianthus spp*)
- Trillium (*Trillium spp*)
- Christmas Rose (*Helleborus spp*)
- Globeflower (*Trollius spp*)
- Common Daylily (*Hemerocallis spp*)
- Tulips (*Tulipa spp*)
- Coral Bells (*Heuchera spp*)
- Pansy and Violet (*Viola spp*)
- Orange Hawkweed (*Hieracium auranticum*)
- Zinnia (*Zinnia spp*)

Prepared by Dan Roman, former Northampton County master gardener; and Jim Sellmer, professor of ornamental horticulture

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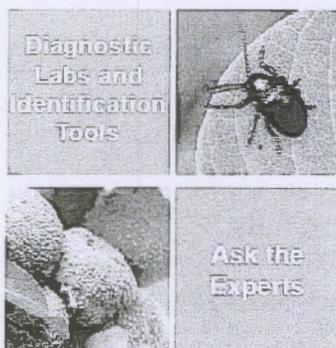
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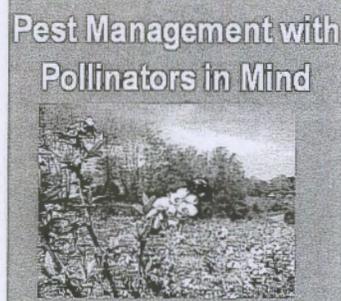
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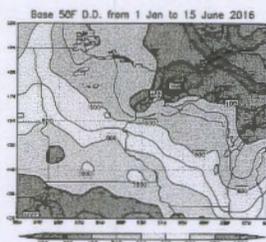
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## 2016 Urban Forestry Workshop



## Growing Degree Day Accumulation



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## Black Walnut Toxicity

Ann Joy and Brian Hudelson,  
UW-Madison Plant Pathology  
Revised: 5/7/2010  
Item number: XHT1017



Wilting of eggplant due to black walnut toxicity.

## What is black walnut

**toxicity?** Black walnut trees (*Juglans nigra*) produce a toxic substance (called juglone) that prevents many plants from growing under or near them. Related trees like butternut (*J. cinerea*) and shagbark hickory (*Carya*

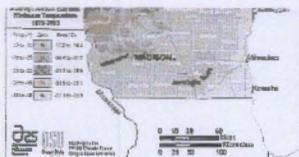
*ovata*) also produce juglone, but in lower concentrations than black walnut. Juglone occurs in all parts of black walnut trees, but especially in buds, nut hulls and roots. The toxic effects of a mature black walnut tree can extend 50 to 80 feet from the trunk of the tree, with the greatest toxicity occurring within the tree's dripline. In this area, plants susceptible to juglone may wilt or die; plants tolerant to juglone will grow normally. Vegetables such as tomato, potato, eggplant and pepper, and ornamentals such as lilac, peony, rhododendron and azalea are particularly sensitive to juglone. What do the effects of black walnut toxicity look like? Plants sensitive to juglone may be stunted, have yellow or brown, twisted leaves, exhibit wilting of some or all plant parts, and die over time. Often, the vascular (i.e., water-conducting) tissue of affected plants will be discolored. Symptoms may occur rapidly, even within a few days after sensitive species are transplanted into a walnut tree's root zone. Alternatively, some plants may survive for years near a young walnut tree, but will wilt and die as the tree increases in size. Black walnut toxicity can be confused with wilts caused by bacterial and fungal pathogens (e.g., see University of Wisconsin Garden Facts XHT1008), herbicide injury (see University of Wisconsin Garden Facts XHT1004), or drought.

**How do I avoid problems with black walnut toxicity?** There is no cure for a plant affected by walnut toxicity. Removing a walnut tree may not be practical as the tree could be the focal point in a landscape. In addition, even if a walnut tree is removed, juglones will not immediately be eliminated, because it is next to impossible to remove all root pieces from the soil and remaining pieces may continue to exude toxins for several years as they decay. When establishing a garden around a walnut tree, try to plant species that are tolerant to juglone (see table on the reverse side). If you are growing sensitive species near a walnut tree, transplant them elsewhere in your garden. If you must grow sensitive plants near a black walnut, keep beds free of walnut leaves and hulls and remove walnut seedlings as they appear. Growing shallow rooted woody and herbaceous plants, and improving drainage can also diminish the effects of juglone. Alternatively, consider building raised beds with wood, stone, or concrete barriers that limit root growth through and under the beds. When disposing of bark and wood from a walnut tree, do not use these materials for mulch.

The information in the following table is intended to provide guidance in selecting plants to

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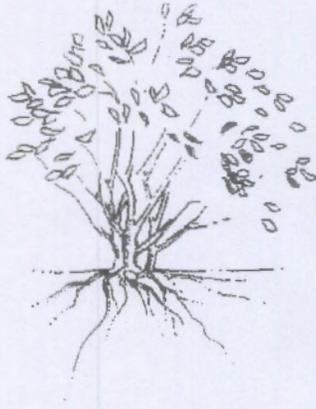
	Sensitive to Juglone	Tolerant of Juglone
Vegetables	asparagus, cabbage, eggplant, pepper, potato, rhubarb, tomato	beans, beet, carrot, corn, melon, onion, parsnip, squash
Flowers	autumn crocus, chrysanthemum, forget-me-not, petunia, peonies	aster, astilbe, bee balm, begonia, black-eyed Susan, bluebell, calendula, crocus, daylily, ferns, grape hyacinth, some hosta varieties, hollyhock, impatiens, Jack-in-the-pulpit, Jacob's ladder, marigold, morning glory, pansy, phlox, Siberian iris, squill, sweet woodruff, trillium, zinnia
Trees	alder, apple and crabapple, basswood, pine, spruce, silver maple, white birch	black locust, catalpa, Eastern redbud, hackberry, Canadian hemlock, hickory, most maples, oaks, pagoda dogwood, poplar, red cedar
Shrubs and Vines	azalea, blackberry (and most berries other than black raspberry), cotoneaster, hydrangea, lilac, mountain laurel, potentilla, privet, rhododendron, yew	arborvitae, bittersweet, black raspberry, clematis, currant, forsythia, euonymus, greenbrier, most honeysuckle, pachysandra, rose-of-Sharon, sumac, most viburnum, Virginia creeper, wild grape, wild rose, willow, witch hazel
Field Crops and Grasses	alfalfa, tobacco	fescue, Kentucky bluegrass, orchard grass, soybean, timothy, wheat, white clover

## Downloads

- [Black Walnut Toxicity.pdf](#)
- [Herbicide Damage XHT1004.pdf](#)
- [Verticillium Wilt X1008.pdf](#)

Tags: tree

Categories: Flower Problems, Tree & Shrub Selection, Vegetable Problems



## Department of Horticulture

Purdue University Cooperative Extension Service • West Lafayette, IN

# BLACK WALNUT TOXICITY

Michael N. Dana and B. Rosie Lerner

Black walnut (*Juglans nigra* L.) is a valuable hardwood lumber tree and Indiana native. In the home landscape, black walnut is grown as a shade tree and, occasionally, for its edible nuts. While many plants grow well in proximity to black walnut, there are certain plant species whose growth is hindered by this tree. The type of relationship between plants in which one produces a substance which affects the growth of another is known as "allelopathy."

Awareness of black walnut toxicity dates back at least to Roman times, when Pliny noted a poisoning effect of walnut trees on "all" plants. More recent research has determined the specific chemical involved and its mode of action. Many plants have been classified through observation as either sensitive or tolerant to black walnuts.

### The Source of Toxicity

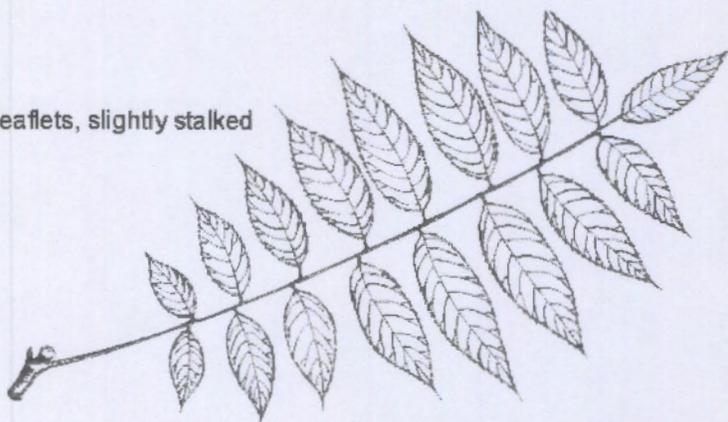
Plants adversely affected by being grown near black walnut trees exhibit symptoms such as foliar yellowing, wilting, and eventually death. The causal agent is a chemical called "juglone" (5 hydroxy-1,4-naphthoquinone), which occurs naturally in all parts of the black walnut. Juglone has experimentally been shown

to be a respiration inhibitor which deprives sensitive plants of needed energy for metabolic activity.

The largest concentrations of juglone and hydrojuglone (converted to juglone by sensitive plants) occur in the walnut's buds, nut hulls, and roots. However, leaves and stems do contain a smaller quantity. Juglone is only poorly soluble in water and thus does not move very far in the soil.

Since small amounts of juglone are released by live roots, particularly juglone-sensitive plants may show toxicity symptoms anywhere within the area of root growth of a black walnut tree. However, greater quantities of juglone are generally present in the area immediately under the canopy of a black walnut tree, due to greater root density and the accumulation of juglone from decaying leaves and nut hulls. This distribution of juglone means that some sensitive plants may tolerate the amount of juglone present in the soil near a black walnut tree, but may not survive directly under its canopy. Alternatively, highly sensitive plants may not tolerate even the small concentration of juglone beyond the canopy spread. Because decaying roots still release juglone, toxicity can persist for some years after a tree is removed.

15-23 leaflets, slightly stalked



Nut with husk removed is grooved



Fruit with surrounding husk is green and round

Figure 1. Typical leaf and nut characteristics of black walnut (*Juglans nigra* L.).

Species survival near or under black walnut trees is further complicated by the fact that the amount of juglone present in the soil depends on soil type, drainage, and soil micro-organisms. Competition for light and moisture under the canopy also greatly affects which species survive where.

Other trees closely related to black walnut also produce juglone, including butternut, English walnut, pecan, shagbark hickory, and bitternut hickory. However, all produce such limited quantities compared to the black walnut that toxicity to other plants is rarely observed.

### Implications for Horticulture

Gardens should be located away from black walnut trees to prevent damage to susceptible plants. If proximity to such trees is unavoidable, then raised beds afford a means of protection. However, the bed must be constructed in such a way as to minimize tree root penetration into the raised portion. Care must be taken to keep the beds free of black walnut leaf litter or nuts. If a garden is separated from a black walnut tree by a rock wall, driveway, or other physical barrier, then root extension growth into the garden area may be limited and juglone toxicity problems minimized.

From observation of native stands of black walnut, decreased toxicity seems to be associated with excellent soil drainage, even among sensitive species. Thus, any steps to improve drainage, such as additions of organic matter or replacement of existing soil with a lighter type, should tend to minimize toxicity problems in a garden area.

Leaves, bark, or wood chips of black walnut should not be used to mulch sensitive landscape or garden plants. Even after a period of composting, such refuse may release small amounts of juglone.

### Juglone Sensitivity in Plants

The following lists were compiled from published sources. They are based largely on observations of native woodlands, gardens, orchards, ornamental plantings, and forest plantations. Few plants have been experimentally tested for tolerance or sensitivity to juglone. Thus, the lists should be used for guidance, but not regarded as definitive.

### Plants Observed to Be Sensitive to Juglone

Vegetables: asparagus, cabbage, eggplant, pepper, potato, rhubarb, tomato.

Fruits: apple, blackberry, blueberry, pear.

Landscape plants: black alder; azalea; basswood; white birch; ornamental cherries; red chokeberry; crabapple; hackberry; Amur honeysuckle; hydrangea; Japanese larch; lespedeza; lilac; saucer magnolia; silver maple; mountain laurel; pear; loblolly pine; mugo pine; red pine; scotch pine; white pine; potentilla; privet; rhododendron; Norway spruce; viburnum (few); yew.

Flowers and herbaceous plants: autumn crocus (*Colchichum*); blue wild indigo (*Baptisia*); chrysanthemum (some); columbine; hydrangea; lily; narcissus (some); peony (some); petunia; tobacco.

Field crops: alfalfa; crimson clover; tobacco.

### Plants Observed to Be Tolerant to Juglone

Vegetables: lima bean; snap bean; beet; carrot; corn; melon; onion; parsnip; squash.

Fruits: black raspberry, cherry.

Landscape plants: arborvitae; autumn olive; red cedar; catalpa; clematis; crabapple; daphne; elm; euonymous; forsythia; hawthorn; hemlock; hickory; honeysuckle; junipers; black locust; Japanese maple; maple (most); oak; pachysandra; pawpaw; persimmon; redbud; rose of sharon; wild rose; sycamore; viburnum (most); Virginia creeper.

Flowers and herbaceous plants: astilbe; bee balm; begonia; bellflower; bergamot; bloodroot; Kentucky bluegrass; Spanish bluebell; Virginia bluebell; bugleweed; chrysanthemum (some); coral bells; cranesbill; crocus; Shasta daisy; daylily; Dutchman's breeches; ferns; wild ginger; glory-of-the-snow; grape-hyacinth; grasses (most); orange hawkweed; herb Robert; hollyhock; hosta (many); hyacinth; Siberian iris; Jack-in-the-pulpit; Jacob's ladder; Jerusalem artichoke; lamb's-ear; leopard's-bane; lungwort; mayapple; merrybells; morning glory; narcissus (some); pansy; peony (some); phlox; poison ivy; pot marigold; polyanthus primrose; snowdrop; Solomon's-seal; spiderwort; spring beauty; Siberian squill; stonecrop; sundrop; sweet Cicely; sweet woodruff; trillium; tulip; violet; Virginia waterleaf; winter aconite; zinnia.

---

For more information on the subject discussed in this publication, visit the following web sites:

[www.uwex.edu/ces/wihort/landscape/Juglon2.htm](http://www.uwex.edu/ces/wihort/landscape/Juglon2.htm)

[ohioline.osu.edu/hyg-fact/1000/1148.html](http://ohioline.osu.edu/hyg-fact/1000/1148.html)

[www.dawesarb.org/Reports/black\\_walnut\\_toxicity.htm](http://www.dawesarb.org/Reports/black_walnut_toxicity.htm)

[plantclinic.cornell.edu/FactSheets/WALNUTW.HTM](http://plantclinic.cornell.edu/FactSheets/WALNUTW.HTM)

---

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(https://www.deerbuster:  
/deer-fence-rolls/)

Metal Deer Fence

**8' x 330' Extra Strength With Reinforced Bottom Edge**

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~~\$490.74~~ **\$408.95**

(You save \$81.79)

SKU: C1108330S

Quantity:

(https://www.deerbuster:  
/metal-  
deer-fence/)

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Gates

(https://www.deerbuster:  
/gates/)

Posts

(https://www.deerbuster:  
/posts/)

Accessories

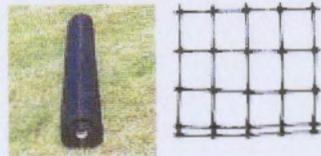
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/accessories/)

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1

Quantity Discounts:

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Tweet

Our 8 foot Extra strength deer fence rolls are lightweight, but are made of an incredibly strong polypropylene

**Remnants**

(<https://www.deerbusters.com/remnants/>)

fence material that will not corrode like metal fences for deer. Because the 8 ft deer fence is so resistant to the elements, it does not require much maintenance. When it comes to pressure from deer and garden pests, the 8' x 330' extra strength deer fence has an ASTM lab-tested and certified 750 pound breaking load, and a reinforced bottom edge that will provide extra protection from digging and attempts to crawl under the fence. This virtually invisible deer fence has a life expectancy of approximately 20 years.

**To complete your 8' extra strength deer fence installation, we recommend the following accessories:**

**8' Heavy Line Posts, pack of 7**  
(<https://www.deerbusters.com/posts/line-posts-deer-fence-use-with-poly-steel-hex/8-deer-fence-heavy-line-posts/8-h-deer-fence-heavy-line-posts-7-pack/>)

**7' Access Gate**  
(<https://www.deerbusters.com/deer-fence-access-gates/>)

**Self-Locking Ties**  
(<https://www.deerbusters.com/self-locking-ties/>)

**Monofilament Wire**  
(<https://www.deerbusters.com/deer-fence-tensioning/>)

**Ground Stakes**  
(<https://www.deerbusters.com/ground-stakes/>)

**8' Heavy End System, pack of 2**  
(<https://www.deerbusters.com/posts/corners-and-ends-deer-fence/for-8-deer-fence/8-h-deer-fence-end-system-2-pack/>)

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~~\$239.94~~ **\$199.95**

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**SKU:** DE2180-07

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/metal-  
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Fence Kits

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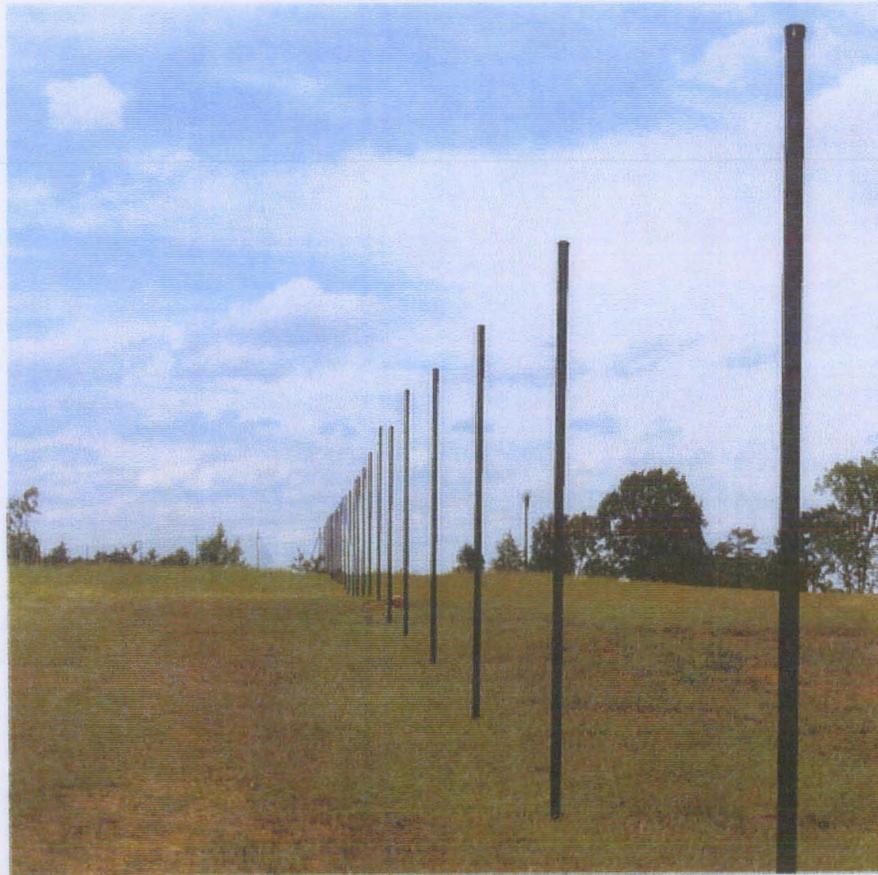
(https://www.deerbuster:  
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(https://www.deerbuster:  
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This Post Pack includes:

## Remnants

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- (7) or (61) 9' x 1 5/8" pipes (8' above ground)
- (7) or (61) Ground Sleeves
- (7) or (61) 1 5/8" Vinyl Post Caps

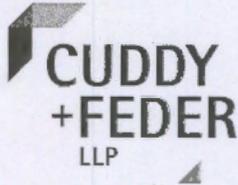
**Technical Specifications****Height: 8' (above ground)****Galvanized steel****Diameter: 1 5/8"****Vinyl coated, black****Wall thickness: 0.055"**

Deerbusters' heavy line posts, made of galvanized steel and a weather-resistant vinyl coating, are built to stand-up to both the elements and your persistent deer. The black color of the line post and round shape are designed to blend-in for a sleek and professional look when installed with our poly deer fences. We have included our galvanized steel ground sleeves to help you anchor your line posts into the ground for a long-lasting installation, and our matching cap inserts to seal your posts and protect them from collecting debris. Pack of 7.

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(not included) for every 21 posts. Place 1 heavy line post every 15 to 20 feet.

★ REVIEWS



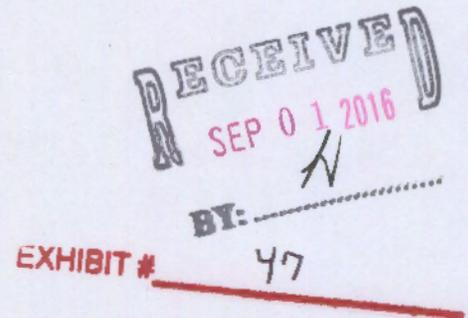
445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
T 914 761 1300  
F 914 761 5372  
cuddyfeder.com

Lucia Chiochio  
lchiochio@cuddyfeder.com

August 31, 2016

**VIA OVERNIGHT MAIL**

Hon. Robert Dee, Chairman  
And Members of the Zoning Board of Appeals  
Town of Philipstown Town Hall  
238 Main Street  
P.O. Box 155  
Cold Spring, NY 10516



Re: Special Permit Application – Supplemental Submission – Additional Videos  
Minor Accessory Structure  
Premises: 51 Indian Brook Road, Garrison, New York 10524 (SBL: 49.-1-17)

Dear Chairman Dee and Members of the Zoning Board of Appeals:

This letter and attachment are respectfully submitted on behalf of our client, Mr. Stephen Flavin (the “Applicant”), the owner of the above-referenced Premises, in furtherance of his Special Permit Application for a proposed modest accessory structure on his 9.2 acre parcel.

Included in the attached CD-Rom are three additional videos recorded by the Applicant on the Premises, while the Applicant drove a vehicle down his property in the location of the proposed driveway, turned around and drove up the same driveway location. For the video recorded at dusk and the video recorded at night, the car headlights were set to high beam. As shown on the enclosed videos and the videos previously submitted, the existing conditions on the Premises includes dense vegetation between the Applicant’s Premises and the property located at 73 Indian Brook Road, which effectively blocks any headlights from the adjacent property. Given the existing screening and the proposed landscaping and screening in conjunction with the limited vehicle trips along the proposed driveway, it is respectfully submitted that the proposed location of the driveway will not result in any headlight glare onto the adjacent home, which is located more than 200 feet from the proposed minor accessory structure.

For the Board’s convenience, we will be prepared to play these short videos at the September 12th hearing.



We respectfully submit that the record for this complete Application demonstrates compliance with all applicable Special Permit criteria for the proposed minor accessory structure and that the Applicant has more than sufficiently addressed all public comments. Moreover, it is respectfully submitted that the proposed minor accessory structure is a Type II action under the SEQRA Regulations Section 617.5(c)(10) as set forth in detail in our July 25<sup>th</sup> submission, requiring no further environmental review. Thus, we request that the Board close the Public Hearing, and in consideration of this Board's detailed review of the Applicant's submissions and comments from the Town's staff, render a decision in favor of the Application at this Board's regular meeting on Monday, September 12, 2016.

Thank you for your consideration in this matter. We look forward to appearing at the September 12, 2016 meeting of this Board.

Very truly yours,

A handwritten signature in cursive script, reading 'Lucia Chiochio', is written in dark ink.

Lucia Chiochio

cc: Adam L. Rodd, Esq. – Attorney to the Zoning Board of Appeals  
Stephen C. Flavin  
Glennon J. Watson, L.S., Badey & Watson  
Daniel Richmond, Esq. (via overnight mail)  
Taylor M. Palmer, Esq.



**ZARIN &  
STEINMETZ**

David J. Cooper  
 Jody T. Cross •  
 Michael J. Cunningham •  
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 Helen Collier Mauch •  
 Zachary R. Mintz •  
 Matthew R. Pisciotta •  
 Daniel M. Richmond  
 Kate Roberts  
 Brad K. Schwartz  
 Lisa F. Smith •  
 David S. Steinmetz •  
 Michael D. Zarin

September 2, 2016

• Also admitted in D.C.  
 • Also admitted in CT  
 • Also admitted in NJ

**Via Hand Delivery**

Chairman Robert Dee and  
 the Members of the Zoning Board of Appeals  
 of the Town of Philipstown  
 Town of Philipstown Town Hall  
 238 Main Street  
 P.O. Box 155  
 Cold Spring, NY 10516

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 BY: .....

**Re: Special Use Permit for 51 Indian Brook Road (49.-1-17)**

**EXHIBIT #**

**48**

Dear Chairman Dee and Members of the Zoning Board of Appeals:

As you know, we represent Sandra, Don, and Brian Nice (the "Nice Family"), who live immediately adjacent to the above-referenced site (the "Site") at 73 Indian Brook Road in Garrison (the "Nice Property"). We have reviewed the Applicant's submission, dated August 29, 2016, as well as its supplemental submission, dated August 31, 2016. Respectfully, the Applicant still has not responded to several significant issues raised by our clients, which directly affect our clients' health, safety, and general welfare. We submit that the Board should refrain from deciding whether to grant the requested special permit until these remaining issues are addressed.

**Environmental Review Has Not Been Completed**

In both the letter dated August 29, 2016 and the letter dated August 31, 2016, the Applicant incorrectly states that this is a Type II Action "requiring no further environmental review." For the reasons set forth in our July 22, 2016 letter to the Zoning Board of Appeals ("ZBA"), this action is a Type I action pursuant to SEQRA, and not a Type II action as the

Applicant claims. In any event, even if it were a Type II action, the Second Department has established that, under these circumstances, "consideration should [be] given to environmental concerns associated with the proposed action." Town of Bedford v. White, 204 A.D.2d 557, 611 N.Y.S.2d 920, 921 (2d Dep't 1994); see also Hazan v. Howe, 214 A.D.2d 797, 625 N.Y.S.2d 670, 672 (3d Dep't 1995) (holding that "a more detailed preliminary inquiry may also be necessary when an administratively predetermined type II classification conflicts with 'a competing environmental impact.'") (citing Town of Bedford). Town of Bedford involved a fact pattern very similar to the one here, where the Second Department held that the installation of a streetlight in a historic district implicated environment concerns which could not rationally be ignored regardless of the Project's classification under SEQRA. Id. at 920. Similarly, the Applicant is proposing to build an accessory structure in an historic area located directly adjacent to a house on the National Register of Historic Places. Moreover, the Nice Property contains other sensitive features. Therefore, environmental review is required pursuant to SEQRA.

Moreover, even if SEQRA were not applicable, your Board would still be required to assess and mitigate the Project's environmental impacts. Special permit review requires review of drainage, watercourses, natural resources and ecosystems, topography, hydrology, and "the natural, historic, and scenic resources of the Town." (The Town Code of the Town of Philipstown (the "Town Code") § 175-63(B)(5), (6), (7) & (8)). The Town Code specifically states that in connection with special permit applications the Town has the policy of "allow[ing] a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environmental, or the rural and historic character of the Town." (Town Code, § 175-60(A)). As such, again, contrary to the Applicant's assertions, the Project's environmental impacts cannot be ignored.

#### **Glare Has Not Been Addressed**

The Applicant prepared two CD-ROMs with videos of the Applicant purportedly driving along the proposed road/driveway leading to the proposed accessory apartment, which the Applicant incorrectly asserts prove that glare will not be an issue. The CD-ROMs prove nothing of the sort. First, the videos appear to be taken from the Applicant's windshield as he is driving, and there are no camera angles from the Nice Property. In fact, as the Applicant was driving the route and taking the videos, Sandra Nice was able to see the lights from the Applicant's car, and found them to be startling and an extreme nuisance. It is also important to note that these videos were taken during the summer, which is the season for peak natural density and coverage from plants. During the winter, the natural barriers provided by the current foliage will not exist, and the already unacceptable glare impacts will be further exacerbated beyond what Ms. Nice recently experienced.

*Our clients invite the ZBA to conduct a site visit at night to see the true effect on the Nice Property of car headlights while driving on the proposed road/driveway.*

In addition, although the applicant's architect has claimed that lights attached to the accessory structure would not affect the Nice Family, we have not received any actual proof that this is the case. Addressing the glare issue is critical to the Nice Family, as it directly affects the health of their family members.

### **A Maintenance Bond Should Be Required**

If your Board were to approve the Applicant's Project, it should require a maintenance bond to ensure that the screening remains effective for at least three (3) years. The Town Code specifically requires your Board to impose "any conditions" necessary to fulfill the purposes of this chapter, "including the posting of performance bonds and furnishing of guarantees to insure the completion of the project in accordance with the conditions imposed." (Town Code § 175-62(G)(2)). The only way to ensure that the screening is effective is to require the applicant to post a bond, as it is clear that the area where the screening would be planted is a wet area where many plants have difficulty growing.

The Applicant already conceded that screening is required to mitigate the potential impacts of the proposed accessory apartment. Similarly, under SEQRA, the Applicant is required to meaningfully mitigate significant adverse environmental impacts. 6 N.Y.C.R.R. § 617.11(d). For the screening to meaningfully mitigate the impacts, it obviously must last for an extended period of time, which is why the Nice Family is requesting a three-year maintenance bond.

### **Stormwater Issues Have Not Been Addressed**

After repeated requests at both the Public Hearings and via email to the Applicant's attorney, the Applicant has still not provided your Board or the Nice Family with any plans showing how stormwater will be handled and/or the drainage impacts to the Nice Family would be addressed. The Nice Family has legitimate concerns regarding the acknowledged wet area located near the property line, and how runoff from the roof of the proposed accessory apartment and other disturbances, such as construction, in that area will impact the Nice Property. They are concerned that a curtain drain is being installed on the other side of the proposed accessory apartment, and not near their property.

The Nice Family requests a formal drainage plan from the Applicant and the opportunity to review it before your Board decides upon the special permit application. See (Town Code § § 175-63(B) and 175-60(A) (establishing that special permit use is only allowed "provided that such uses do not adversely affect neighboring properties.")).

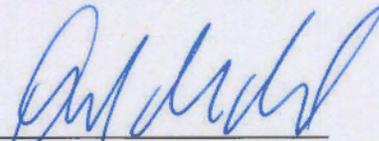
**Conclusion**

In light of these serious outstanding issues, we respectfully request that the ZBA defer its decision regarding the special permit application before all of the remaining issues stated in this letter are addressed. As always, please let us know if your Board has any questions.

Very truly yours,

ZARIN & STEINMETZ

By:



Daniel Richmond  
Michael Cunningham

DMR/mth  
cc: Lucia Chiochio, Esq.



ZARIN &  
STEINMETZ

David J. Cooper  
 Jody T. Cross \*  
 Michael J. Cunningham \*  
 Marsha Rubin Goldstein  
 Helen Collier Mauch \*  
 Zachary R. Mintz \*  
 Matthew R. Pisciotta \*  
 Daniel M. Richmond  
 Kate Roberts  
 Brad K. Schwartz  
 Lisa F. Smith \*  
 David S. Steinmetz \*  
 Michael D. Zarin

September 7, 2016

\* Also admitted in D.C.  
 \* Also admitted in CT  
 \* Also admitted in NJ

Via Email

Chairman Robert Dee and  
 the Members of the Zoning Board of Appeals  
 of the Town of Philipstown  
 Town of Philipstown Town Hall  
 238 Main Street  
 P.O. Box 155  
 Cold Spring, NY 10516

**Re: Special Use Permit for 51 Indian Brook Road (49.-1-17)**

Dear Chairman Dee and Members of the Zoning Board of Appeals:

This letter supplements our previous letters dated July 11, 2016, July 22, 2016, and September 2, 2016. It has become apparent since the time of these submissions that this Application appears to be entirely improper inasmuch as it would exceed the limitations on the number of accessory apartments on a property as per the Town of Philipstown Town Code (the "Town Code").

The Town Code states that there may only be "**one** accessory apartment per lot." (Town Code, § 175-12(C)(1)) (emphasis added). One definition of "Accessory Apartment" as defined in the Town code is "[a] dwelling unit occupying the lesser of 800 square feet or 30% of the floor space of an owner-occupied single-family dwelling." (Town Code, § 175-74). A dwelling unit is defined as "[a] building or portion thereof providing complete housekeeping facilities for one family." (Town Code, § 175-74).

According to the Certificate of Occupancy ((Permit No: 2001:8822) and (CO/CC Number 2001:8822)) issued for the subject property, there has already been an addition of an

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EXHIBIT # 50

Tel: (914) 682-7800  
 Fax: (914) 683-5490

BY: R

81 Main Street, Suite 415  
 White Plains, New York 10601

www.zarin-steinmetz.com

1192 square foot garage with living space above. Also, there was a 288 square foot carport addition, with a 720 square foot renovation of the former garage. It is our clients' understanding that at least part of the area described in the certificate of occupancy was used as an accessory apartment for other members of the Applicant's family.

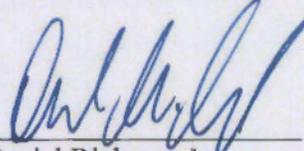
Because the Code only allows for one accessory apartment per lot, the proposed standalone accessory structure would be a second accessory apartment, and would violate Town Code Section 175-12(C). Therefore, it would appear that the special permit application should be denied for this reason alone.

As always, please let us know if your Board has any questions.

Very truly yours,

ZARIN & STEINMETZ

By:



Daniel Richmond  
Michael Cunningham

DMR/mth  
cc: Lucia Chiochio, Esq.  
Encs.

TOWN OF PHILIPSTOWN  
238 Main Street / PO Box 155  
Cold Spring, NY 10516  
(845)265-5202 / (845)265-2687 fax

**BUILDING PERMIT**

SEC-BLK-LOT: 89/49.-1-17

Permit No: 2001:0822

Issue Date: 10/11/2002

Permit Fee: 397  
C/D Fee :50

OWNER'S NAME: FLAVIN STEVEN C - TRUSTEE  
C/O FLAVIN DANIEL N JR  
ADDRESS: 51 INDIAN BROOK ROAD  
GARRISON NY 10524

Location of project : 51 INDIAN BROOK RD

WORK DESCRIPTION: addition 1192sf garage, 286sf carport, 720sf renovation

Approximate project cost : \$160,000.00

An application having been filed and the required fee paid, pursuant to the Code of the Town of Philipstown, and it appearing from said application that proposed project will comply with the Code of the Town Of Philipstown and the New York State Uniform Fire Prevention and Building Code, in all respects, a building permit is hereby granted.

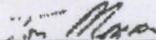
PERMIT IS VALID FOR ONE YEAR AND MUST BE RENEWED ANNUALLY, WITH PAYMENT OF REQUIRED FEE IN ACCORDANCE WITH CURRENT FEE SCHEDULE, UNTIL A CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLIANCE IS ISSUED.

IT IS UNLAWFUL TO OCCUPY OR USE THE STRUCTURE OR ANY PORTION THEREOF, FOR WHICH THIS PERMIT IS ISSUED, UNTIL A CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLIANCE IS OBTAINED.

RENEWALS:  
DATE FEE PD VALID UNTIL

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

ISSUED BY:

  
Code Administrator

TOWN OF PHILIPSTOWN  
238 Main Street, PO Box 155  
Cold Spring, NY 10516  
(845)265-8202 / (845) 265-2867 fax

**CERTIFICATE OF**  
**COMPLIANCE  OCCUPANCY**

SEC-BLK-LOT: 89/49.-1-17

Permit No : 2001:8822

CO/CC Issue Date: 12/8/2003

CO/CC Number : 2001:8822

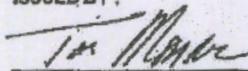
OWNER'S NAME: FLAVIN STEVEN C - TRUSTEE  
& ADDRESS C/O FLAVIN DANIEL N JR  
51 INDIAN BROOK ROAD  
GARRISON NY 10524

Location of project : 51 INDIAN BROOK RD

WORK DESCRIPTION : addition 1192sf-garage w/liv. space above,  
288sf carport, 720sf renovation of former  
garage

A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :

  
Code Administrator

NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND  
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN





FOUNDATION PLANS

BASEMENT FINISH SCHEDULE

DOOR AND WINDOW SCHEDULE

PROPOSED ALTERATIONS AND ADDITIONS

TO THE FLAVIN RESIDENCE

51 INDIAN BRIDGE ROAD, GARRISON, NY 10523-1946

FRANK EDWARD DUSHIN, ARCHITECT

907 SOUTH ST., PLEASANTVILLE, NY 10563-4194

DATED: JUNE 12, 2002

49-1-17

58 TO PROPERTY LINE

CODE ADMINISTRATION  
 RECEIVED 7/26/02  
 BY T.M.

PLANS REVIEWED  
 BY [Signature] 7-26-02  
 APPROVED 7/26/02  
 REJECTED 1/1  
 SEE NOTES

5

# TERENCE P LENNON ARCHITECT

**Re:** Mr and Mrs Chris and Maria Marrison residence  
7 old Manitou  
Garrison NY

## Attention Philipstown Department

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

The only structure visible from our house is the Gary's on the other side of Route 9D, approximately 300 feet away. If we built further from Old Manitou Road, we would be building closer to their house. On the other side of Old Manitou Road from our house, there is a steep bank belonging to Manotoga, with no house and not used as part of the park by the public. The foundation/garage level is approximately 10 feet below the level of Old Manitou Road at the point where the Road passes the house.

### 1b. What impact would the variance have on the character of the neighbourhood?

The original part of the existing building was originally built in the 1800s by the edge of the road. Since then additions have been made in the 1920ies and 1970ies. The design for the extension is in keeping with the existing building and is further from the Road than the existing building. It will therefore make very little difference to the character of the neighbourhood.

### 2. If didn't get the variance what else could you do to accomplish your goals?

We would probably need to move. We have considered many many different designs and locations, each with their own drawbacks. This design seems to be the only one which allows integration with the existing structure. Immediately to the west of the existing structure, towards the foundations, there is an 8ft stone wall. Building there would require significant work to rebuild the stone wall, would cause drainage difficulties, and would result in a long thin house. The size of the addition (26 x 26) is the minimum sensible size to allow a 2 car garage with rooms above.

### 3. What code requirement you seek to vary?

We seek to build closer to Old Manitou Road than is permitted by the standard code. We wish to build an addition and associated condenser, generator to a minimum distance of 21 feet from the closest point of the property line at the front yard setback. This is equivalent to being 50 feet from the center of Old Manitou Road.

### 4. What impact on the physical and environmental conditions in the area?

We are adding an extension of 26ft x 26ft in a lot of 3.4 acres. There will be minimal grading (no blasting) for the foundations and to connect the garage level to the road level. We do not expect any paving. There is an occasional stream (it hasn't run this year) 160 ft from the extension, but we are not expecting to add to the bedroom count or significantly change the drainage. The well is approximately 250 ft away. The septic is 20 ft away from the other corner of the building and if we did not have the variance we would probably need to build closer to the septic. There will be no change in traffic or emissions.

### 5. Is this variance the result of a self-created hardship?

The existing house has never had an attached garage, the item we are seeking a variance for now. We purchased the property 15 years ago. We now have children aged 8 and 10, which may or may not be considered a mistake.

EXHIBIT #

18

RECEIVED  
AUG 22 2016  
BY: *R*

James R. Loeb  
Richard J. Drake, *retired*  
Glen L. Heller\*  
Marianna R. Kennedy  
Gary J. Gogerty  
Stephen J. Gaba  
Adam L. Rodd  
Dominic Cordisco  
Timothy P. McElduff, Jr.  
Ralph L. Puglielle, Jr.  
Nicholas A. Pascale

Lisa M. Card  
Alana R. Bartley  
Aaron C. Fitch  
Juliana O'Grady

Jennifer L. Schneider  
Managing Attorney

\*LL.M. in Taxation

July 5, 2016

ATTN: ROBERT DEE, CHAIRMAN  
Zoning Board of Appeals  
Town of Philipstown  
Town Hall  
238 Main Street  
Cold Spring, New York 10516

Re: Kristin Sorenson lot line change  
Our Matter ID: 6082-67501.01

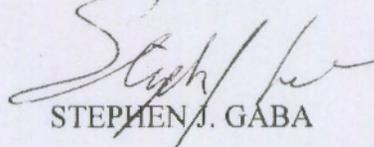
Dear Chairman Dee and Board Members:

I am writing at the direction of the Town of Philipstown Planning Board regarding the above-referenced matter. At its June 18, 2016 meeting, the Planning Board considered an application for subdivision approval (lot line change) submitted by Kristin Sorenson. The Planning Board voted to refer the application to the ZBA for consideration of granting variances.

Particularly, the lot line change at issue involves deeding a 42.76 x 353.22' strip of land from one lot to another. The "donor" lot is a flag lot. The lot line change will result in the "donor" lot lacking the 35' of road frontage required by Town Code §175-22(A). Additionally, the "donor" lot is a legal existing undersized lot, and the proposed lot line change will increase its nonconformity. Accordingly, the property owner will need to variances for road frontage and to increase the nonconformity of an existing undersized lot.

If you have any questions feel free to contact me.

Very truly yours,

  
STEPHEN J. GABA

SJG/512500  
cc: Kristin Sorenson  
Planning Board  
Building Inspector

**RECEIVED**  
JUL 06 2016  
BY: 

EXHIBIT # 12

Sorenson from Tuana  
December 1, 2005  
Vacant Lot, Old Albany Post Road, Garrison, NY 10524

**Present at Closing**

Purchaser	Kristin E. Sorenson
Attorney	Thomas Whyatt, Esq.
Sellers	Marta Guitart by POA to Anne Colucci
Attorney	Anne Colucci, Esq.
Closer	Peter Marasco

**Credits to Seller**

Purchase Price	\$400,000.00
Town/County Taxes	\$12.71
School Taxes	\$612.68

**Total Credits to Seller** **\$400,625.39**

**Credits to Purchaser**

Downpayment	\$40,000.00
Brush Clearing Cred	\$1,000.00
School Tax Relevy	\$1,149.70

**Total Credits to Purchaser** **\$42,149.70**

**Total Due Seller** **\$358,475.69**

**Payments Made at Closing**

Bank Check to Marta Guitart	\$360,625.39
Less Refund Check to Purchaser	(\$2,149.70)

**Balance Due Seller** **(\$0.00)**

**Additional Payments by/for Purchaser**

Title Fees	\$2,352.00
Title Closer	\$150.00
Legal Fees	\$7,520.00

**Total Additional Payments** **\$10,022.00**

**Escrow Account**

**Deposits on 11/29/05**

\$223,147.38
\$137,478.01

**11/29/05 Balance** **\$360,625.39**

**Withdrawal on 12/01/05** **\$360,625.39**

**Closing Balance** **\$0.00**

**EXHIBIT #** 5

**RECEIVED**  
JUL 11 2016  
BY: Y

Oxman, Tulis, Kirkpatrick, Whyatt & Siger, LLP  
 120 Bloomingdale Road  
 White Plains, N.Y. 10605  
 (914) 422-3900 Fax (914) 422-3636

**COMMONWEALTH LAND  
 TITLE INSURANCE COMPANY**

175 MAIN STREET - SUITE 814  
 WHITE PLAINS, N.Y. 10601  
 (914) 949-7220 Fax (914) 949-9534

(2) ATTORNEY FOR LENDER:

TITLE NO: L379, 734-P

APPLICATION DATE: Nov. 2, 2005

RECORD OWNER(S): Marta Guitart

INSURE AS MTGEE: -----

INSURE AS PURCHASER(S): Kristin E. Sorenson

3) ATTORNEY FOR SELLER:

Anne A. Colucci, Esq.  
 Shamberg, Marwell, Davis & Hollis, P.C.  
 55 Smith Avenue  
 Mt. Kisco, N.Y. 10549  
 (914) 666-5600 Fax (914) 666-6267

PREMISES: Located on Old Albany Post Road, Town of Philipstown, County of Putnam and State of New York.

4) ADDITIONAL REPORT:

**BUYER(S) - BORROWER(S) CHARGES**

TITLE CLOSED ON \_\_\_\_\_ 20\_\_

BY \_\_\_\_\_

**SELLER(S) CHARGES**

N.Y.S. TRANSFER TAX	
RECORD SATISFACTION(S)	
PICKUP FEE	
FEDERAL EXPRESS	
FILE U.C.C. 3	
RECORD RELEASE	
<b>TOTAL</b>	

**CHECKS - RECEIPTS**

COUNTY CLERK - DIRECT M.T.	
RECEIVER OF TAXES	
ARRISON UFSD	
DEPT. OF TAXATION & FINANCE	
WATER DEPT.	
MANSION TAX	
CHECKS TO P.M.A.I.	
BUYER/BORROWER	
BUYER/BORROWER (TAX ESCROW)	
SELLER	
<b>TOTAL</b>	

	MORTGAGE INSURANCE	
	FEE INSURANCE \$400,000.00	2,082.00
\$25	ENDORSEMENTS: EPL() RES() WA() VRE()	
	C/O & BUILDING DEPT. SEARCHES	
	SURVEY INSPECTION	
	MARKET VALUE RIDER	
	MORTGAGE TAX (MORTGAGOR)	
10%	ENDORSEMENTS Rev. Crd. ( ) Sur ( ) 9 ( )	
	RECORD MORTGAGE	
	RECORD DEED	270.00
	MANSION TAX	
	RECORD POWER OF ATTORNEY	
	RECORD SATISFACTION-RELEASE(S)	
	FEDERAL EXPRESS	
	FILE BUILDING LOAN AGREEMENT	
	BANKRUPTCY SEARCH	
	REC. CONSOL./EXT./MOD. AGT./M.T. AFF.	
	PICKUP-FEE - EXTRA CHAIN(S)	
	ESCROW - (SEPARATE CHECK)	
	ESCROW SERVICE CHARGE-School Tax	
	<b>TOTAL</b>	<del>2,212.00</del> 2,352.00

EXHIBIT # 9

PAID PM

Oxman Tulis Kirkpatrick Whyatt & Geiger LLP  
120 Bloomingdale Road  
White Plains, NY 10605

INVOICE FOR LEGAL SERVICES: THOMAS WHYATT

December 1, 2005

Kristin Sorenson & Eric Stark  
1000 Albany Post Road  
Garrison, NY 10524

Re: Continued representation re: Settlement; Easement;  
Purchase of Vacant Property, Albany Post Road  
June through December 1, 2005

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Continuing discussions; further revise draft  
covenants & easement document; survey review;  
letter to ZBA re: deferral and problems with  
subdivision. See daily log for details.

30 hours @ \$250/hr	\$ 7,500.00
Overnight Contracts	20.00
	-----
Due and payable	\$ 7,520.00

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Please make checks payable to  
Oxman Tulis Kirkpatrick Whyatt & Geiger LLP  
Thank You

pd 12/1/05  
①

EXHIBIT # 10



Recording office time stamp

New York State Department of Taxation and Finance

## Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

See Form TP-584-1, Instructions for Form TP-584, before completing this form. Please print or type.

**Schedule A — Information relating to conveyance**

Grantor/Transferor <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Other	Name (if individual; last, first, middle initial)	Social security number
	Marla Guitart	336869360
	Mailing address	Social security number
	16 East 52nd Street, Suite 902	
	City	State
	New York	New York
	ZIP code	Federal employer ident. number
	10022	
Grantee/Transferee <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Other	Name (if individual; last, first, middle initial)	Social security number
	Kristin E. Sorenson	027-52-3180
	Mailing address	Social security number
	1000 Albany Post Road	
	City	State
	Garrison	New York
	ZIP code	Federal employer ident. number
	10524	

Location and description of property conveyed

Tax map designation			Address	City/village	Town	County
Section	Block	Lot				
50	2	48	1002 Old Albany Post Road		Philipstown	Putnam

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input checked="" type="checkbox"/> Vacant land	5 <input type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <div style="border: 1px solid black; padding: 2px; display: inline-block;">                     12 / 1 / 05  <small>month day year</small> </div>	Percentage of real property conveyed which is residential real property <u>100.00</u> % <i>(see instructions)</i>
--	---	---	--

Condition of conveyance (check all that apply)

- |   |  |  |
|---|--|--|
| a. <input checked="" type="checkbox"/> Conveyance of fee interest<br><br>b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____%)<br><br>c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____%)<br><br>d. <input type="checkbox"/> Conveyance to cooperative housing corporation<br><br>e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identify or form of ownership or organization (attach Form TP-584.1, Schedule F)<br><br>g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)<br><br>h. <input type="checkbox"/> Conveyance of cooperative apartment(s)<br><br>i. <input type="checkbox"/> Syndication<br><br>j. <input type="checkbox"/> Conveyance of air rights or development rights<br><br>k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender<br><br>m. <input type="checkbox"/> Leasehold assignment or surrender<br><br>n. <input type="checkbox"/> Leasehold grant<br><br>o. <input type="checkbox"/> Conveyance of an easement<br><br>p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)<br><br>q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state<br><br>r. <input type="checkbox"/> Other (describe) _____ |
|---|--|--|

<i>For recording officer's use</i>	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
------------------------------------	--	---------------	--------------------

**Schedule B — Real estate transfer tax return (Tax Law, Article 31)**

**Part I — Computation of tax due**

1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input type="checkbox"/> Exemption claimed	1.	400,000.00
2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	
3 Taxable consideration (subtract line 2 from line 1)	3.	400,000.00
4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	1,600.00
5 Amount of credit claimed (see instructions and attach Form TP-584.1, Schedule G)	5.	
6 Total tax due* (subtract line 5 from line 4)	6.	1,600.00

**Part II — Computation of additional tax due on the conveyance of residential real property for \$1 million or more**

1 Enter amount of consideration for conveyance (from Part I, line 1)	1.	
2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)	2.	
3 Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.	

**Part III — Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)**

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) ..... a
- b. Conveyance is to secure a debt or other obligation ..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance ..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts ..... d
- e. Conveyance is given in connection with a tax sale ..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F ..... f
- g. Conveyance consists of deed of partition ..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act ..... h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property ..... i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment ..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) ..... k
- l. Other (attach explanation) ..... l

\*Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in New York City, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C — Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1.  The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2.  The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
  - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
  - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
  - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
  - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

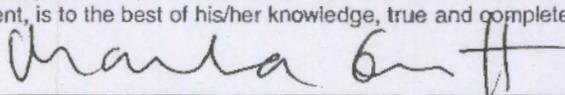
**Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

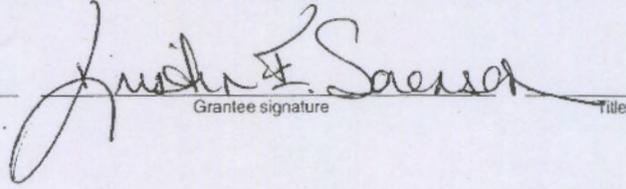
Other (attach detailed explanation).

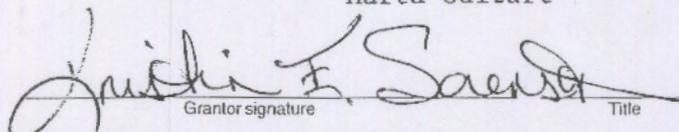
3.  The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
  - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
  - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4.  The real property being transferred is subject to an outstanding credit line mortgage recorded in \_\_\_\_\_ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is \_\_\_\_\_. No exemption from tax is claimed and the tax of \_\_\_\_\_ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City, make check payable to the NYC Department of Finance.)

**Signature (both the grantor(s) and grantee(s) must sign)**

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete.

  
 Grantor signature    Marta Guitart    Title

  
 Grantee signature    Title

  
 Grantor signature    Title

Grantee signature    Title

**Reminder:** Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in New York City, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)**

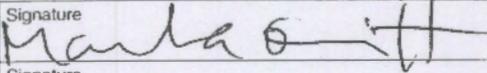
Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

**Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

**Certification of resident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature 	Print full name Marta Guitart	Date 11/27/05
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

**Note:** A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

**Part II - Nonresidents of New York State**

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-1.

**Exemption for nonresident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from \_\_\_\_\_ Date to \_\_\_\_\_ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

**SCHEDULE A - Description**

The premises in which the Insured has the estate or interest covered by this policy

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 particularly bounded and described as follows:

BEGINNING at a point along the centerline of a stone wall marking the east side of Old Albany Post Road, said point of beginning being the following courses and distances from the southwest corner of lands now or formerly of Murphy, as measured along the easterly side of said Old Albany Post Road, South 12 degrees 36' 1" East 18.56 feet; South 13 degrees 23' 38" East 11.46 feet and South 13 degrees 16' 40" East 40.02 feet to the point or place of beginning; which point of beginning is at the northwest corner of the herein described premises;

THENCE North 78 degrees 52' 35" East 333.72 feet to a point of curvature;

THENCE in an easterly direction along the arc of a curve to the right having a radius of 60.00 feet and an arc length of 18.28 feet to a point;

THENCE South 11 degrees 7' 25" East 275.03 feet to a point;

THENCE South 78 degrees 52' 35" West 68.00 feet to a point;

THENCE North 11 degrees 7' 25" West 60.00 feet to a point;

THENCE South 78 degrees 52' 35" West 280.00 feet to a point along said stone wall marking said east side of Old Albany Post Road and the southwest corner of the herein described premises;

THENCE along said centerline of the stone wall marking the east side of Old Albany Post Road the following courses and distances: North 13 degrees 31' 30" West 11.36 feet; North 11 degrees 3' 20" West 116.62 feet and North 13 degrees 16' 40" West 89.89 feet to the point or place of BEGINNING.

TOWN OF PHILIPSTOWN  
PUTNAM COUNTY, NEW YORK

APPLICATION FOR APPROVAL OF SUBDIVISION PLAT

The undersigned hereby make application to the Planning Board of the Town of Philipstown under Part-One Subdivision Regulations for one of the following (check one):

- for approval of a Preliminary Plat;
- for approval of a Final Plat;
- for approval of a Minor Subdivision as a Final Plat; or
- for revision of a previously Filed Plat.

For Office Use Only

1.	Application # <u>897</u>
2.	Fee <u>100.00 Cash</u>
3.	Rec'd by <u>[Signature]</u>
4.	Date <u>8-12-16</u>

I. Identification of Applicant and Owner:

a. Applicant (name) KRISTIN E. SORENSON Tel (845) 558-2990  
 address 1000 OLD ALBANY POST ROAD  
GARRISON, NY 10524

b. Owner of property if not same as Applicant:

(name) \_\_\_\_\_ Tel. \_\_\_\_\_  
 address \_\_\_\_\_  
 \_\_\_\_\_

II. Attachments: Each of the following, when applicable, shall be attached to and are made a part of this Application (check the items attached):

- A-1 Affidavit of Ownership, executed by the individual, or by the general partner of a partnership, that is the owner of property if not same as the Applicant; OR
- A-2 Affidavit of Ownership, executed by a corporation that is the owner of property if not same as the applicant.
- Appendix B-1 certification executed by the Applicant if the partnership, corporation, association or business trust.

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BY: [Signature]

EXHIBIT # 1

II Attachments: (cont.)

- Appendix B-2 certification executed by the owner of property if the owner is a partnership, corporation, association or business trust
- Appendix C Disclosure Statement under Sec. 809 of the General Municipal law.
- Appendix D Identification of Property and Proposal.
- Appendix E Identification of Plans and Documents.
- EAF - Environmental Assessment Form
- Application Checklist
- Request for a Waiver of Subdivision Regulations

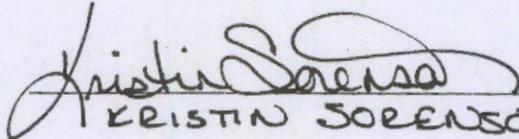
III. Authorization: The Applicant and Owner hereby grant to the Planning Board, the Town Board and Superintendent of Highways, and their authorized agents, permission to enter upon the property that is the subject of this Application for the purpose of inspection and enforcement of the Subdivision Regulations, including the taking of tests and materials samples:

IV. Endorsements:

a. Applicant

Date 5.23.16

Signed

  
KRISTIN SORENSON ✓

by

\_\_\_\_\_  
(authorized agent)

b. Owner of Property if not same as Applicant

Date \_\_\_\_\_

Signed \_\_\_\_\_

by \_\_\_\_\_

\_\_\_\_\_  
(authorized agent)

A P P E N D I X A-1: AFFIDAVIT OF OWNERSHIP (Individual or Partnership)

State of New York )

ss. :

County of Putnam )

KEISTIN SORENSON, being duly sworn, deposes and says that SHE resides at 1000 Old ALBANY Post ROAD, GARRISON the County of PUTNAM, State of NY and that SHE (a general partner or N/A) is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Town of Philipstown, New York, aforesaid and known and designated on the Tax Map of the Town of Philipstown as Lot Number 48 Block 2 on Map 50 and that deponent (said partnership) acquired title to the said premises by deed from MARTA GUITART dated 12/14/05 and recorded in the Office of the Clerk of the County of Putnam on \_\_\_\_\_ in Liber 1728 of Conveyance at Page 283 and that SHE (said partnership) hereby consents to the annexed application of LOT LINE ADJUSTMENT for approval of the map (or project) entitled LOT LINE ADJUSTMENT and that statements of fact contained in said application, including the statements contained in all of the exhibits transmitted herewith, are true to the best of deponent's knowledge and belief.

(signed) *Keistin Sorenson*

Sworn to before me this

24 day of May 2014

*[Signature]*  
Notary Public

Susan K. Truax  
Notary Public, State of New York  
Dutchess County No. 01TR6209733  
Commission Expires 08/03/2017

APPENDIX C

TOWN OF PHILIPSTOWN, NEW YORK  
DISCLOSURE STATEMENT ACCOMPANYING APPLICATION OR PETITION

A. Identification of Application or Petition:

1. TO:  Philipstown Town Board  
 Philipstown Planning Board  
 Zoning Board of Appeals  
 Zoning Administration Officer/Building Inspector

2. NAME OF APPLICANT: KRISTIN E. SORENSON

3. RESIDENCE: 1000 OLD ALBANY POST ROAD, GARRISON  
NEW YORK, 10524

4. DATE: \_\_\_\_\_

5. NATURE OF APPLICATION OR PETITION: LOT LINE ADJUSTMENT  
(SEE ATTACHED.)

B. Nature and Extent of Interest of any State Officer or Municipal Officer or Employee in this Application (Set forth in detail).

N/A

C. Statement that no State Officer or Municipal Officer or Employee has an interest in this Application.

The undersigned Applicant or Petitioner certifies by signature on this Disclosure Statement that, with the exception of the information contained in Paragraph B, above in accordance with the provisions of Sec. 809 of the General Municipal Law, no State officer or any officer or employee of the Town of Philipstown or of any municipality of which the Town is a part has any interest in the person, partnership or association making the above application, petition or request.

Date: 5.23.16

Signed

*Kristin E. Sorenson* ✓

(Note: See reverse for the provisions of Sec. 809)

This informaton is provided especially for those who may be making appli-  
cation without assistance of counsel, so that they will be fully advised as to  
the purpose and requirements of this statute.

#### SEC. 809. DISCLOSURE IN CERTAIN APPLICATIONS

1. Every application, petition or request submitted for a variance, amend-  
ment, change of zoning, approval of a plat, exemption from a plat or official map  
license or permit, pursuant to the provisions of any ordinance, local law, rule or  
regulation constituting the zoning and planning regulations of a municipality shall  
state the name, residence and the nature and extent of the interest of any state  
officer or any officer or employee of such municipality of which such municipality  
is a part, in the person, partnership or association making such application,  
petition or request (hereinafter called the applicant) to the extent known to such  
applicant.

2. For the purpose of this section an officer or employee shall be deemed to  
have an interest in the applicant when he, his spouse, or their brothers, sisters,  
parents, children, grandchildren, or the spouse of any of them

- (a) is the applicant, or
- (b) is an officer, director, partner or employee of the applicant, or
- (c) legally or beneficially owns or controls stock of a corporate appli-  
cant or is a member of a partnership or association applicant, or
- (d) is a party to an agreement with such on applicant, express or implied,  
whereby he may receive any payment, or other benefit, whether or not  
for services rendered, dependent or contingent upon the favorable  
approval of such application, petition or request.

3. Ownership of less than five per cent of the stock of a corporation  
whose stock is listed on the New York or American Stock Exchanges shall not  
constitute an interest for the purposes of this section.

4. A person who knowingly and intentionally violates this section shall  
be guilty of a misdemeanor.

APPENDIX D: IDENTIFICATION OF PROPERTY AND PROPOSAL

D-1. Property

- a. Total acres 1.865
- b. Does application cover all contiguous land of the owner? No  
If no, explain any excluded area LOT 49 EXISTING  
HOMESTEAD
- c. Tax Map: Sheet MAP 5D Block 2 Parcel(s) LOT 48
- d. Last deed: Date 12/14/05 Liber 1728 Page 283

D-2. Location:

- a. Zoning District(s) R-80
- b. Property abuts (street or roads) OLD ALBANY POST ROAD
- c. Municipal Districts encompassing all or part of property:  
School: GARRISON  
Fire Protection: GARRISON  
Other: \_\_\_\_\_
- d. Does plat propose a new street or private way connecting directly into any State Highway or County Road? No If yes, give name and route # \_\_\_\_\_
- e. Does plat involve drainage lines connecting directly into any channel lines established by the County of Putnam? No
- f. Does plat include any land within 500 feet of any abutting municipality, the boundary of any existing or proposed County or State park or recreation area, the right-of-way of any existing or proposed County or State highway, the existing or proposed right-of-way or stream channel owned by the County and for which channel lines have been established, or the boundary of County or State land on which a public building or institution is established? YES  
If yes, specify FANN STOCK PARK < 500 FT. AWAY,  
NOT ABUTTING
- g. Give name and address of all property owners within 500 feet of the perimeter boundary of the proposed plat (as indicated in the current Town Tax Assessor's records): SEE ATTACHED LIST

D-3. Proposal:

- a. Number of Proposed Lots: 1, number already occupied by dwellings, if any: 0
- b. Length of Proposed streets or private ways in Plat: N/A feet.
- c. Does Applicant propose to dedicate to public use all of the streets shown on the proposed plat? N/A, if not, describe  
\_\_\_\_\_  
\_\_\_\_\_
- d. Approximate acreage of land proposed as open space for parks and playground:  
0 acres.
- e. Does applicant propose to dedicate to public use all of the open space shown on the proposed plat? N/A, if not, describe  
\_\_\_\_\_  
\_\_\_\_\_
- f. How is water supply to be provided? N/A Has any application been made to the County of Putnam or State of New York for approval of proposed water supply? \_\_\_\_\_, if yes, give date and describe  
\_\_\_\_\_
- g. How is sewage disposal to be provided? N/A  
Has any application been made to the County of Putnam or State of New York for sewage discharge or approval of a sewage disposal system? \_\_\_\_\_, if yes, give date and describe  
\_\_\_\_\_
- h. Does proposed plat include any wetlands and/or water courses as defined by the State of New York or an applicable Local Law? No, if yes, describe \_\_\_\_\_

D-4. Procedures:

- a. Does applicant (in the case of preliminary plats) propose to submit a final subdivision plat to cover entire preliminary plat or to file same in sections?
- entire;
- in sections.
- b. Does applicant intend to request any special authorization for the plat under any of the following? N/A If yes, specify,
- Sec 281 of Town Law (cluster)
- Waiver of Subdivision Regulation (Sec. 5)
- Alternate road standards

D-5. Encumbrances: If property is subject to any of the following encumbrances, describe or attach copies:

- a. easements N/A
- b. deed restrictions on use and development N/A
- c. mortgages N/A
- d. liens N/A
- e. leases N/A
- f. other N/A

D-6. Minor Plat: If request is made for acceptance of an application for final, approval of minor subdivision plat, complete the following:

- a. Does plat incorporate all of the tract from which lots are proposed to be divided? YES
- b. Does the plat map show all natural water courses, ponds, swamps, flood plains or other land subject to potential flooding within the plat and any other land subject to potential flooding within the plat and any drainage onto the plat from any existing State Highway, County Road or Town Street? N/A

A P P E N D I X E: IDENTIFICATION OF PLANS AND DOCUMENTS

E-1. Surveyor and Designer(s) Responsible for Plans:

- a. Surveyor (name) MATTHEW NOVELLO  
Address 77 HUGANSON RD, CARMEL, NY 10512  
Tel. (845) 225-4004  
N. Y. License No. 50073
- b. Engineer (name) SAME AS ABOVE  
Address \_\_\_\_\_  
Tel. \_\_\_\_\_  
N. Y. License No. \_\_\_\_\_
- c. Other (name) \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. \_\_\_\_\_  
N. Y. License, if any \_\_\_\_\_

E-2. Maps and Plans:

- a. Title and Date of Proposed Plat Map: LOT LINE ADJUSTMENT  
& SURVEY OF PROPERTY FOR KRISTIN SORENSON  
4/4/16  
No. of Sheets: 1
- b. Title and Date of Proposed Profiles and Construction Plans: \_\_\_\_\_  
\_\_\_\_\_
- No. of Sheets: \_\_\_\_\_
- c. Title, Date and Preparer of other maps and plans: \_\_\_\_\_  
\_\_\_\_\_

E-3. Other: Give titles, dates and preparer of reports and documents accompanying application: (such as results of soils test and reports on drainage, sewage disposal and water supply):

N/A

E-4. Attorney (if any):

- a. (name) \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. \_\_\_\_\_

Proposal for Lot Line Adjustment  
Tax Map 50.00 Block 2 Lot 48 and Lot 50.1

June 2 2016

Owners: Lot 50.1  
Clark Thompson  
Laura Watt  
994 Old Albany Post Rd  
Garrison, NY 10524

Owner: Lot 48  
Kristin Sorenson  
1000 Old Albany Post Rd  
Garrison, NY 10524

With the decision of the previous owner, Joseph Tuana, of Lot 50.1, 50.2, and 50.3 to recombine these lots due to an improper subdivision into one single lot 50.1, the two 20' wide entrances created to meet zoning regulations for flag lots 50.2 and 50.3 are no longer necessary.

For due consideration the current owners of 50.1, Laura Watt and Clark Thompson, have agreed to transfer the area described in the survey January 20, 2006 and revised April 4 2016 showing a lot line adjustment to the benefit of Lot 48 of a parcel 40.2' x 353.22' containing 14,115 sq. ft. This parcel represents 5.4% of Lot 50.1 and therefore falls under the guidelines for a lot line conveyance of less than 10%.

Lot 48 will increase in size by approximately 17%, but this change does not alter its pre-existing status as a buildable lot under the zoning laws that existed when it was created. Adding the additional 40.2' of frontage to this lot will enhance access from Old Albany Post Rd as well as create greater flexibility to the building site plan.

EXHIBIT #

2

All Property Owners within 500 Ft. Lot 48 Block 2 Map 50

Richard and Paige Gordon  
1024 Old Albany Post Rd  
Garrison, NY

Matthew Noviello  
77 Hughson Road  
Carmel, NY 10512

Clark Thompson  
Laura Watt  
998 Old Albany Post Rd  
Garrison, NY 10524

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <p style="text-align: center; font-size: 1.2em;">LOT LINE ADJUSTMENT</p>			
Project Location (describe, and attach a location map): <p style="text-align: center; font-size: 1.2em;">DUD ALBANY POST RD., MAP #50, BLOCK #2, LOT #48 &amp; #50</p>			
Brief Description of Proposed Action: <p style="text-align: center; font-size: 1.2em;">LOT LINE ADJUSTMENT, 42.76<sup>FT.</sup> WIDE X 353 FT. PARCEL TO BE ADDED TO LOT #48 FROM LOT #50</p>			
Name of Applicant or Sponsor: <p style="font-size: 1.2em;">KRISTIN E. SORENSON</p>		Telephone: 845-558- E-Mail:	
Address: <p style="font-size: 1.2em;">1000 OLD ALBANY POST RD.</p>			
City/PO: <p style="font-size: 1.2em;">GARRISON</p>		State: <p style="font-size: 1.2em;">NY</p>	Zip Code: <p style="font-size: 1.2em;">10524</p>
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		1.865 acres	
b. Total acreage to be physically disturbed?		0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		3.866 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify):			
<input type="checkbox"/> Parkland			

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BY:           A          

EXHIBIT #           4



<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>

**I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE**

Applicant/sponsor name: KRISTIN SORENSON

Date: June 1, 2016

Signature: *Kristin Sorenson*

C1. SWIS Code

C2. Date Deed Recorded

C3. Book C4. Page



STATE OF NEW YORK STATE BOARD OF REAL PROPERTY SERVICES

RP - 5217

RP-5217 Rev 3/97

PROPERTY INFORMATION

1. Property Location 1002 Old Albany Post Road

Philipstown Villiage 10524 ZIP CODE

2. Buyer Name Sorenson Kristin E.

LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)

STREET NUMBER AND STREET NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR Part of a Parcel

- 4A. Planning Board with Subdivision Authority Exists
4B. Subdivision Approval was Required for Transfer
4C. Parcel Approved for Subdivision with Map Provided

5. Deed Property Size FRONT FEET X DEPTH OR ACRES 1.839

6. Seller Name Guitart Marta

LAST NAME / COMPANY FIRST NAME

- 7. Check the box below which most accurately describes the use of the property at the time of sale:
A One Family Residential B 2 or 3 Family Residential C Residential Vacant Land D Non-Residential Vacant Land
E Agricultural F Commercial G Apartment H Entertainment / Amusement
I Community Service J Industrial K Public Service L Forest
8. Ownership Type is Condominium
9. New Construction on Vacant Land
10A. Property Located within an Agricultural District
10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

SALE INFORMATION

11. Sale Contract Date 11 / 14 / 05

12. Date of Sale / Transfer 12 / 01 / 05

13. Full Sale Price 400,000.00

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

14. Indicate the value of personal property included in the sale 0.00

15. Check one or more of these conditions as applicable to transfer:

- A Sale Between Relatives or Former Relatives
B Sale Between Related Companies or Partners in Business
C One of the Buyers is also a Seller
D Buyer or Seller is Government Agency or Lending Institution
E Deed Type not Warranty or Bargain and Sale (Specify Below)
F Sale of Fractional or Less than Fee Interest (Specify Below)
G Significant Change in Property Between Taxable Status and Sale Date
H Sale of Business is Included in Sale Price
I Other Unusual Factors Affecting Sale Price (Specify Below)
J None

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken 05 17. Total Assessed Value (of all parcels in transfer) 598,000

18. Property Class 314- 19. School District Name Garrison

20. Tax Map Identifier(s) / Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))

Sec. 50, Block 2, Lot 48

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

RIIYER

BUYER'S ATTORNEY

THIS INDENTURE, made <sup>as of</sup> the <sup>1st</sup> day of <sup>December</sup> ~~November~~, 2005

**BETWEEN**

Marta Guitart, with an address at 16 East 52nd Street, Suite 902, New York, NY 10022

party of the first part, and

Kristin E. Sorenson, residing at 1000 Albany Post Road, Garrison, NY 10524

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of

ten dollars  
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

Town of Philipstown, County of Putnam, State of New York, as more particularly described in Schedule "A" annexed hereto and made a part hereof.

Being the same premises conveyed to the grantor herein by deed from Paul T. Heuston dated June 7, 2004 and recorded on June 16, 2004 in Liber 1670 cp 244 in the Putnam County Clerk's Office.

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" when ever 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

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE IN NEW YORK STATE**

State of New York, County of New York ss:

State of New York, County of \_\_\_\_\_ ss:

On the 28 day of November in the year 2005 before me, the undersigned, personally appeared Marta Guitart personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Pamela Jager  
(signature and office of individual taking acknowledgment)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

**PAMELA JAGER**  
NOTARY PUBLIC, STATE OF NEW YORK  
ID No. 1JA6121226  
QUALIFIED IN SUFFOLK COUNTY  
N.Y. COMMISSION EXPIRES 01/10/2009

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE**

State (or District of Columbia, Territory, or Foreign Country) of \_\_\_\_\_

ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the \_\_\_\_\_

\_\_\_\_\_ in \_\_\_\_\_  
(insert the City or other political subdivision) (and insert the State or Country or other place the acknowledgment was taken)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

DISTRICT \_\_\_\_\_  
SECTION 50  
BLOCK 2  
LOT 48

COUNTY OR TOWN Philipstown

STREET ADDRESS 1002 Old Albany Post Road  
Garrison, NY 10524

Recorded at Request of  
THE JUDICIAL TITLE INSURANCE AGENCY LLC

RETURN BY MAIL TO:

**BARGAIN AND SALE DEED**  
WITH COVENANT AGAINST GRANTOR'S ACTS

Title No. \_\_\_\_\_

Marta Guitart

TO

Kristin E. Sorenson

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS  
Distributed by  
THE JUDICIAL TITLE INSURANCE AGENCY LLC  
550 MAMARONECK AVENUE  
HARRISON, NY 10528  
914-381-6700 • 800-281-TITLE

Thomas Whyatt, Esq.  
Oxman, Tulls, Kirkpatrick, Whyatt & Geiger  
120 Bloomingdale Road  
White Plains, NY 10605

NG OFFICE



## Town of Philipstown

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

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

8-29-2016

Ezra & Carrie Firestone  
537 East Mountain Road North  
Cold Spring, NY 10516

Re: Zoning Permit Application for Car Port  
Location: 537 East Mountain Road North  
Tax Map: #17.-2-85

A Building and Zoning Permit Application for a Car Port was received on 8-29 2016 and includes the following information;

1. Application for Building and Zoning Permit
2. 2 plan page construction drawings
3. Site Plan
4. A reduced size copy of a survey

Please be advised that 537 East Mountain Road North is located in the Rural Conservation Zone (RC) and the required side line setback is 30 feet as shown on the "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code.

A review of the site plan indicates that a car port is 27 feet from the side yard property line in violation of "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code which requires 30 feet from a side yard property line.

This Zoning Permits application for the car port is hereby **DENIED** for nonconformance with "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code.

**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.

GREG WUNNER  
Code Enforcement Officer

EXHIBIT #

9

RECEIVED  
AUG 29 2016  
BY: *R*

1



# Town of Philipstown

4714

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

## APPLICATION FOR BUILDING AND ZONING PERMIT

Tax Map # 17.-2-85 Date Received: 8-29-16

Construction Located at: 537 East Mountain Road North Garrison or Cold Spring

Owner: Ezra & Carrie Firestone Phone Number: 925-209-6523

Mailing Address 537 East Mountain Road North Cold Spring, NY 10516

Authorized Agent: Glennon J. Watson, L.S. Phone Number: 845-265-9217

Mailing Address 3063 Route 9 Cold Spring, NY 10516

Description of Work: New Carport

Occupancy Classification: \_\_\_\_\_ Construction Classification: \_\_\_\_\_ Number of Stories: 1 Building Area: 580 sqft

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

Heating Appliance: N/A Electrical, Mechanical, Plumbing: N/A Wood Stove: N/A Oil or LP Tank: N/A

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

Area of Land Disturbance: 600 sq.ft. Estimated Value of Construction \$ 15,000.00

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

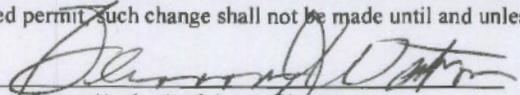
Design Professional: Glennon J. Watson, L.S. Phone 845-265-9217

General Contractor: \_\_\_\_\_ Phone \_\_\_\_\_ PCL# \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Phone \_\_\_\_\_ PCL# \_\_\_\_\_

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.

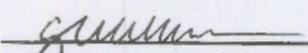
  
Owner/Authorized Agent Signature

8/29/2016  
Date

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

Chargeable footage: \_\_\_\_\_ sqft. FEES \_\_\_\_\_ Received Date \_\_\_\_\_ 2014

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 herby authorizes the issuance of said permit when payment of FEES are received and duly recorded.

  
Code Enforcement Officer Signature

8-29-16  
Date

**BUILDING PERMIT NUMBER:** \_\_\_\_\_

## 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 *100 - No Escrow*

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

**RECEIVED**  
AUG 29 2016  
BY: *R*

EXHIBIT # 1

APPEAL # 898 Tax Map # 17.-2-85

Final hearing date \_\_\_\_\_ Zoning Board decision APPROVED / DENIED

Date application submitted \_\_\_\_\_

Application fee \$ 100.00 Escrow \$ N/A Received by R. Valente  
(previously paid) pd ck # 42799

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

I (we), Ezra & Carrie Firestone

residing at 537 East Mountain Road North, Cold Spring, NY 10516

Telephone: home 925-209-6523 business \_\_\_\_\_

HEREBY appeal the decision of (name and title) Greg Wunner, Building Inspector

whereby he/she

GRANTED \_\_\_\_\_ DENIED  a BUILDING PERMIT  a CERTIFICATE OF OCCUPANCY \_\_\_\_\_

For Ezra & Carrie Firestone

To Install Carport

of \_\_\_\_\_

For property at tax map # 17.-2-85 in zoning district RC (Rural Conservation)

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:

**537 East Mountain Road North, Cold Spring, NY.**  
Located on East Mt. Rd. North approximately 1000 feet north of the intersection of East Mt. Rd. South and East Mt. Rd. North.  
Driveway is on east side heading north and mailbox is labeled.

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)

SEE ATTCHED LIST

- 3 PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code) **Dimension Table of Section 175-11B requiring 30' side yard setback.**

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)

None

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:

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

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

**Area variance being sought. Garage will require 2.3 reduction of side yard setback.  
(27.7' setback in lieu of 30' setback).**

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

**Garage location was chosen to allow for ease of use with property and existing driveway,  
and to avoid ledge, existing retaining wall, and drop off.**

(c) a SPECIAL USE PERMIT is requested:

(1) The reason the permit is requested:

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

(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:

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 specific 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?

**No detriment to nearby properties expected. Closest nearby structure over 250'. It will not be visible**

**to others and will not block a view. No exterior lighting is proposed.**

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?

**No impact to character of neighborhood. Property is isolated from neighboring properties and not visible**

**from road or neighboring properties. Similar single story garages are common in neighborhood.**

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?

**If variance was not issued, garage would have to be removed.**

3. What is Code requirement you seek to vary? **30 ft side yard setback required by Section 175-11B**

**(Dimensional Table)**

How large of a variance do you seek? **23 ft.**

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?

No impact on current physical and environmental conditions in the area. No grading or blasting. No paving on previously un-paved surfaces. No vegetation to be removed. No wetlands or watercourses to be affected.

Normal drainage patterns will not be affected. Well is between garage and property line, septic is undisturbed.

No increase in activity that produce noise or odor. No increase in traffic. Garage is in keeping with scenic beauty of house.

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

Variance request is a result of a self-created hardship. No need for variance when property was purchased.

Property was purchased in 2015. Structure was built without permit. Home owner was given improper advise by builder that no permit was needed.

STATE OF NEW YORK, COUNTY OF PUTNAM Ezra Firestone

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.

*Ezra Firestone*  
Signature of applicant or agent

Sworn before me this 29 day of August 2016  
~~XXXX~~

*Rebecca W. Linda*

Notary, Dutchess County.

REBECCA W. LINDA  
NOTARY PUBLIC, State of New York  
No. 5004353  
Qualified in Dutchess County  
Commission Expires November 16, 2018

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



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

4714

**APPLICATION FOR BUILDING AND ZONING PERMIT**

Tax Map # 17-2-85 Date Received: \_\_\_\_\_

Construction Located at: 537 EAST MT ROAD NORTH Garrison of Cold Spring

Owner: EZRA & CARLIE FIRESTONE Phone Number: \_\_\_\_\_

Mailing Address 537 EAST MT RD NORTH, COLD SPRING NY 10516

Authorized Agent: MICHAEL P. PARR PE Phone Number: 845 424 6119

Mailing Address 13 WOODLAND DRIVE GARRISON NY 10524

Description of Work: NEW CAR PORT

Occupancy Classification: \_\_\_\_\_ Construction Classification: \_\_\_\_\_ Number of Stories: 1 Building Area: 500 sqft

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

Heating Appliance: N/A Electrical, Mechanical, Plumbing: N/A Wood Stove: N/A Oil or LP Tank: N/A

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

Area of Land Disturbance: ~600 sq.ft. Estimated Value of Construction \$ 15,000

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

Design Professional: MICHAEL PARR 070881 Phone 845 424 6119

General Contractor: \_\_\_\_\_ Phone \_\_\_\_\_ PCL# \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Phone \_\_\_\_\_ PCL# \_\_\_\_\_

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.

[Signature]  
 Owner/Authorized Agent Signature

3-16-16  
 Date

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

Chargeable footage: \_\_\_\_\_ sqft. FEES \_\_\_\_\_ Received Date \_\_\_\_\_ 2014

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.

Code Enforcement Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

**BUILDING PERMIT NUMBER:** \_\_\_\_\_

EXHIBIT # 2

**RECEIVED**  
 AUG 29 2016  
 BY: [Signature]

17.-2-85  
**FIRESTONE ADJOINERS**  
**537 East Mountain Rd N**

17.-2-86  
LORIA, STEVEN C  
541 East Mountain Rd N  
Cold Spring, NY 10516

17.-2-87  
JORDAN, ROBERT D  
551 East Mountain Rd N  
Cold Spring, NY 10516

18.-2-2.1  
LANGER, ERIC  
820 East Mountain Rd S  
Cold Spring, NY 10516

17.-2-89  
BROWN, SARAH JOANNAH  
150 Phillipse Brook Rd  
Garrison, NY 10524

18.-2-1  
LAKE NEWEL, LTD  
755 East Mountain Rd S  
Cold Spring, NY 10516

18.-2-2.2  
ZOUZIAS, CHRISTOS S  
840 East Mountain Rd S  
Cold Spring, NY 10516

17.-2-83  
WEYAND, CASEY T  
523 East Mountian Rd No  
Cold Spring, NY 10516

17.-2-84  
COLETTA, JOHN  
531 East Mountain Rd N  
Cold Spring, NY 10516

17.-2-80  
O'HALLORAN, PATRICK  
538 East Mountain Rd N  
Cold Spring, NY 10516

RECEIVED  
AUG 29 2016  
BY: *R*

EXHIBIT # 3



# Town of Philipstown

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

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

April 1, 2016

Ezra & Carrie Firestone  
537 East Mountain Road North  
Cold Spring, NY 10516

Re: Zoning Permit Application for Car Port  
Location: 537 East Mountain Road North  
Tax Map: #17.-2-85

A Building and Zoning Permit Application for a Car Port was received on March 29, 2016 and includes the following information;

1. Application for Building and Zoning Permit
2. 2 plan page construction drawings
3. Site Plan
4. A reduced size copy of a survey

Please be advised that 537 East Mountain Road North is located in the Rural Conservation Zone (RC) and the required side line setback is 30 feet as shown on the "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code.

A review of the site plan indicates that a car port is 27 feet from the side yard property line in violation of "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code which requires 30 feet from a side yard property line.

This Zoning Permits application for the car port is hereby **DENIED** for nonconformance with "Dimensional Table", section 175-11 B. of the Town of Philipstown Zoning Code.

**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

EXHIBIT # 4

RECEIVED  
AUG 29 2016  
BY: W



Michael C Bartolotti, County Clerk  
 Putnam County Office Building  
 40 Glensida Avenue Room 100  
 Carmel, New York 10512



ACS-00000000359339-00000000727993-005

Endorsement Page

Document # 1501011      Drawer # 07      Recorded Date: 05/07/2015  
 Document Type: DEED      Book 1979      Page 128      Recorded Time: 11:48:09 AM  
 Document Page Count: 5      Receipt # 7647

PRESENTER:

RG AGENCY  
 1000 NORTH DIVISION STREET  
 P.O. BOX 431  
 BEEKSKILL, NY 10566

RETURN TO:

JOSEPH MORRISSEY, ESQ.  
 231 MAIN STREET, STE. 201  
 NEW PALTZ, NY 12561

PARTIES

GRANTOR  
 GAELYN SHARP

GRANTEE  
 CARRIE FIRESTONE

FEE DETAILS

RESERVED FOR CERTIFICATION

Consideration:		\$780,000.00
1501011		
DEED	5	45.00
FP-584	1	5.00
CULTURAL EDUCATION		15.00
RECORD MANAGEMENT		5.00
RP-5217 RESID/AGRIC		125.00
TRANSFER TAX		3,120.00
PROCESSING FEE	1	1.00
AMOUNT FOR THIS DOCUMENT:		3,316.00
RETT #	000001678	

THIS DOCUMENT WAS EXAMINED PURSUANT TO §315  
 REAL PROPERTY LAW

EXEMPTIONS

RESERVED FOR CLERKS NOTES

Michael C. Bartolotti  
 Putnam County Clerk

Firestone, Carrie - file 0 = prep

RECEIVED  
 AUG 29 2016  
 BY:

EXHIBIT # 5

**Schedule A**  
(description)

All that certain piece, plot or parcel of land situate lying and being in the TOWN OF PHILIPSTOWN, COUNTY OF PUTNAM, State of New York, known and designated as Lot No. 5.2 on a certain map entitled, "Subdivision Plat prepared for Junntye and Chlung Chu Lin" dated September 13, 1988 and filed in the Putnam County Clerk's Office, Division of Land Records, on June 8, 1989 as Map No. 2418, bounded and described as follows:

BEGINNING at the point on the easterly line of East Mountain Road North where it is met by the line dividing of the said Lot 5.2, on the south, from Lot No. 4 on that certain map entitled "Hideway Acres...", which was filed in the Putnam County Clerk's Office, Division of Land Records on September 23, 1976 as Map No. 1535, on the north, which Lot No. 4 has since been subdivided and is now shown on the certain "Subdivision Plat prepared for Giern W. Demers..," which was filed in the Putnam County Clerk's Office, Division of Land Records on November 23, 1989, as Map No. 2633;

THENCE from the said point of beginning along the last mentioned division line, South 72° 39' 50" East 1,604.62 feet to a point at the line of lands now or formerly of McKee;

THENCE along the said McKee lands and continuing along lands now or formerly of Greenberg, the following courses and distances:

South 22° 14' 00" East 46.05 feet,  
South 30° 00' 00" East 19.36 feet,  
South 19° 11' 00" East 19.76 feet,  
South 24° 25' 00" East 18.75 feet,  
South 19° 12' 00" East 192.16 feet,  
South 10° 46' 00" East 32.90 feet,  
South 24° 01' 00" West 30.03 feet,  
South 28° 39' 00" West 50.18 feet,  
South 31° 42' 00" West 64.17 feet,  
South 30° 24' 00" West 57.19 feet,  
South 19° 25' 00" West 15.04 feet,  
South 36° 08' 20" West 191.66 feet, and  
South 32° 10' 10" West 114.97 feet to a point at the northerly line of Lot No. 7 on the aforementioned Filed Map No. 1535;

THENCE along the said northerly line of Lot No. 7 on Filed Map No. 1535, North 83° 25' 20" West 252.26 feet to a point at the easterly line of Lot No. 6 on said Filed Map No. 1535;

THENCE along the said easterly line of Lot No. 6 on Filed Map No. 1535, North 07° 08' 10" East 447.13 feet and North 71° 10' 00" West 649.26 feet to a point at the line dividing said Lot No. 5.2 on Filed Map No. 2418 now being described, on the east, from Lot No. 5.1 on said Filed Map No. 2418, on the west;

THENCE along the lines dividing said Lot No. 5.2 and Lot No. 5.1, North 17° 20' 10" East 248.10 feet and North 72° 39' 50" West 690.11 feet to another point on the easterly line of East Mountain Road North;

THENCE northerly along the said easterly line of East Mountain Road North, North 16° 04' 00" East 20.00 feet to the point or place of BEGINNING.

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE IN NEW YORK STATE**

State of NEW YORK, County of \_\_\_\_\_ ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2015  
before me, the undersigned, personally appeared

State of NEW YORK, County of \_\_\_\_\_ ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2015  
before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE**

State (or District of Columbia, Territory, or Foreign Country) of \_\_\_\_\_ ss:  
On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the

\_\_\_\_\_ in \_\_\_\_\_  
(insert the City or other political subdivision) (and insert the State or Country or other place the acknowledgment was taken)

*SEE ATTACHED*

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

***Bargain and Sale Deed***

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO RGP 20713

SECTION 17.  
BLOCK 2  
LOT 85  
COUNTY OR TOWN Putnam County  
STREET ADDRESS 537 East Mountain Road North  
Cold Spring, NY 10516

GAELYN SHARP

TO

CARRIE FIRESTONE and EZRA FIRESTONE

RECORDED AT REQUEST  
OF RG AGENCY  
PO BOX 431  
PEEKSKILL, NY 10566  
914-739-2700  
RETURN BY MAIL TO

RETURN BY MAIL TO:

Joseph Morrissey, Esq.  
231 Main Street, Suite 201  
New Paltz, NY 12561

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES )

On April 23, 2015, before me, Roxana E. Cousens-Acedo, Notary Public, personally appeared Gaelyn Sharp, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to be that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] [SEAL]



OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Bargain and Sale Deed, with Covenant against Grantor's Acts
Document Date: None Number of Page: Two (2)
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Gaelyn Sharp
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[X] Individual [ ] Attorney in Fact
[ ] Trustee [ ] Guardian or Conservator
[ ] Other:
Signer is Representing:

Signer's Name:
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[ ] Individual [ ] Attorney in Fact
[ ] Trustee [ ] Guardian or Conservator
[ ] Other:
Signer is Representing:

**CERTIFICATE OF  
COMPLIANCE  OCCUPANCY**

SEC-BLK-LOT: 89/17.-2-85

Permit No : 2005:9530

CO/CC Issue Date: 5/19/2006

CO/CC Number : 2005:0530

OWNER'S NAME: PADILLA, ROLAND  
& ADDRESS 1160 OLD ALBANY POST RD  
GARRISON, NY 10524

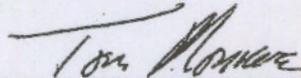
Location of project : 537 EAST MOUNTAIN ROAD N

WORK DESCRIPTION : 2000 sf +/- Single family residence with screen porch, stoop  
and deck

---

A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :

  
Code Administrator

NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND  
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN

RECEIVED  
AUG 29 2016

BY: 

EXHIBIT # 6

## CERTIFICATE OF OCCUPANCY

SEC-BLK-LOT: 89/17.-2-85

Permit No : 2008:10056

CO/CC Issue Date: 5/1/2008

CO/CC Number : 2008:10056

OWNER'S NAME: SHARP GARLYN  
& ADDRESS 537 EAST MOUNTAIN RD  
COLD SPRING , NY 10516

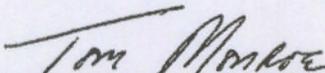
Location of project : 537 EAST MOUNTAIN ROAD N

WORK DESCRIPTION : 20x20 DECK, STAIRS TO EXISTING PORCH

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A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :

  
Code Enforcement Officer

NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND  
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN

RECEIVED  
AUG 29 2016

BY: 

EXHIBIT # 7