

# ZONING BOARD OF APPEALS

November 14, 2011

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, November 14, 2011, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

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

### ABSENT:

**Vincent Cestone** - First item on the agenda is a review for completeness, have you had a chance to look at this

**Amy Zamenick** - I did. We were able to meet with Bill and I do believe that he has done everything that the Board has asked of him. He has identified the Code sections more clearly as to what he is asking for in an interpretation. And he is appealing the issuance of the building permit.

**Vincent Cestone** - Okay. You feel comfortable with it

**Amy Zamenick** - Yes I do.

**Vincent Cestone** - So. Do we need to do a roll call for completeness

**Amy Zamenick** - If you would like. It is up to you. If that is your procedure

**Vincent Cestone** - We will just go directly into the Public Hearing

**Amy Zamenick** - Okay. Since I don't know what your procedure was before, why don't we do a motion

**Vincent Cestone** - Okay. I make a motion to deem the application complete.

**Paula Clair** - Second

**Vincent Cestone - All those in favor**

**All Board Members - Aye**

**Vincent Cestone - All those opposed**

**(no response)**

**Vincent Cestone - Okay so, someone to speak for the applicant?**

**William Florence - I am Bill Florence**

**Vincent Cestone - Yes**

**William Florence -** I hope that my letter to Mr. Donohue has been circulated to all the members as to why I am asking for an interpretation. Different parts of the zoning ordinance. I will give you some context within which we make this request. As I read the record here in town hall, a structure was constructed in 1985. It was done so without a building permit or an application for a CO. The records in Town Hall allow us to infer that it was discovered by the Town in 1992. So it is presumed thereafter that it made the tax roll after 1992. But no building permit was ever issued. And a building permit was ultimately issued after Mr. Donohue went to the site and found two structures there. Both of which were \_\_\_\_\_ storage of automobiles. One is a roof with post, which is called a carport that is 24 by 48. And the other is 112 by 24 feet steel structure which is referred to as an automobile storage facility. The doors are scale of the drawing that are in Town Hall scale out at 18 feet in width. It is not a normal garage door. We would submit to you that we would advocate that it is a commercial size door for commercial size exercise of some activity that will alternately occur there. So between the two structures we then say wait a minute, can a structure that is not lawful become lawful? And in order to have the board find its way through that, we ask for an interpretation of some of the sections of the zoning ordinance. Now in addition to that, at the very end of that inquiry that you make, is a second set of questions. That second set of questions relate to whether that structure or those structures are customary and accessory to the main structure, which is a single family residence there. And in that respect we will note that the combined square footage of the buildings far exceeds the size, the footprint of the house and as far as customary is concerned, we would suggest that there are not any other buildings in the neighborhood that resemble a structure of this size and dimension and of this type of material. We believe we are dealing with a steel structure. So, if there are questions, that was an outline of why we are here and what we think are the analytical aspects of how the board will want to go through and examine and make inquiries for this interpretation.

**Vincent Cestone - Okay. The sections of the code include citing.**

**William Florence - Yes**

**Vincent Cestone -** What are they and tell me why you think the structure violates that or what your feelings are.

**Amy Zamenick -** Just to assist in directing the Board's attention as he goes through them, in his letter addressed to Kevin he identifies these sections by numbers by interpretation request. It is a letter dated November 10<sup>th</sup> sent to Kevin Donohue and you will see each interpretation request directly points to one or more code sections. It goes into more detail after that but those are the ones that I would specially draw your attention to.

**William Florence -** We start off with jurisdiction. The town has jurisdiction under 175.2 part of a comprehensive plan and from there we go to, and the purpose of this is to assure the orderly growth and development of the Town to preserve scenic value to which make the Town a desirable place to live in which enhances property value. And provide adequate tax base. We say there are some question with both issues here. Because of the necessary municipal services that preserve and enhance property values as preserve and enhance the appearance and beauty of the community for the enjoyment of residents of the Town and State. So number one you've got your jurisdiction and purposes of this zoning ordinance generally pointed out to you simply because it is the overview, the umbrella under which you are going to make a determination.

**Amy Zamenick -** If I may Bill,

**William Florence - Yes**

**Amy Zamenick -** May I offer to help identify how your party has aggrieved

**William Florence -** Okay let me back up. Our interest in this on behalf of Mr. Mordhorst is that in order to get to the structure, you have to travel over a roadway that is on Mr. Mordhorst's property. So, what happens in this case and you will see in the very last paragraph of my \_\_\_\_\_ to you that although it is not for this board to be concerned with, ultimately we are preoccupied with Mr. Giusti's over the years widening the roadway over which he travels to get to his house on Mr. Mordhorst's property. A great deal of damage has occurred as a result of that and these parties are diametrically opposed to one another with respect to the widening of this roadway.

**Vincent Cestone -** Is the widening within the easement that was granted?

**William Florence -** The easement that exists is a 50 foot wide easement. Within that easement is the roadway. You do not have permission or the right to expand the roadway beyond the normal use anticipated for its pre-existing status of the road. I mentioned that in an earlier tone also. But the answer is no, you

don't have the right to broaden or to intensify the activity or broaden the use.

**Amy Zamenick** - We have not had a chance to review the easement to see if it specifically calls for a roadway. Since it is not really our area, that is not something that I requested. So for the \_\_\_\_\_ as the attorney, I would say I don't know the answer to that we would have to see the easement \_\_\_\_\_.

**William Florence** - I think, and I have said to you, it is not for this board. It is for another place. And the only reason I am saying it to you is because it is why we have, as I would call an enhanced interest in the structure that is being built. That has been built. As long as you know the reasons for it, we are not just busy bodies looking around for a night to have a fight. There is a purpose behind all of this. We know that it is not for here and we don't necessarily want you to be overburdened by it. But we do want you to understand, have some understanding of the overall picture of what is going on between these two neighbors. We again asked the court, your court, I'm sorry. You know where I was this morning I guess. In Section 175.8 and 11 it is the business of the application for the building permit and the application for the CO. And 11 is where we say that the approval of the issue of the permits and the certificate by Mr. Donohue is where he has authority to act on these things. So what we are saying there is again, the structure, he has issued a building permit. We say that the structure is not a lawful structure and that the consequence of that we need to have an interpretation of whether you believe as a board that the structure which is not lawful can receive a building permit to make it a lawful structure. And that is really the heart of what is going on here. We say that it cannot be referred to as lawful because it never had a lawful status. That's where we are in that. The third request is for an interpretation in Article 7 of the non-conforming uses at Section 27 and that is to determine in reading the new zoning code, oh this is a tricky one, in reading the new code, the new code says go back to the old code when you are talking about structures which have occurred prior to the enactment and prior to the effective date of the new code. So what it really says to us is yes there is a new code. But it is not for an interpretation in the interpretation that we think should happen. If you go back, it throws you back to the old code. And that's really what we are talking about here. So we allege that in May the new zoning code took effect with the outstanding violations and therefore the structures cannot be reasonably lawful existing on that date. We allege that the controlling regulations for the issuance of certificates of occupancy for these structures are intricate depending on the old zoning ordinances, back to the old zoning ordinances. And that the new ordinance will refer to the existing ordinance at the time of the construction which takes me back to where I was reading before in the old book. And the fourth request that we make is the interpretation in Article 7 of Section 175.25 in determining what is customary and what is incidental. And that is back to where I was saying before, I will read some points on that score. We submit that when the applicant built the auxiliary structure, steel structure, the controlling zoning ordinance was Chapter 2 Paragraph 2.1. No building or other structure or part thereof shall be

constructed, reconstructed, enlarged, extended, moved or structurally altered until a building permit has been issued and there has been an application for the CO therefore has been approved by the zoning administration office. No building or other structure or part thereof shall be used or occupied or changed in use until a CO has been issued by the zoning administration office certifying conformity with the local law. When a use of land is subject to specific provisions of this law, such use of land shall not be established and no construction work in connection with such use of land shall be commenced until an application for a CO there from has been approved by the zoning administration offices. So, not lawful. How does it get to be lawful? The goal of regulations, we go back to just to give you some idea of what we are talking about, is that the purposes of the ordinances to assure the orderly growth, we are back to that again, the orderly growth and development of the Town to preserve scenic value which will make the Town a desirable place to live and will enhance the property value. To provide for an adequate tax base and to support necessary municipal services to preserve and enhance the beauty of the community. The enjoyment of the residents, I already told you that.

**Vincent Cestone** - So what remedy are you looking for?

**William Florence** - The remedy is the building can't do that.

**Vincent Cestone** - So you are asking that the building be torn down?

**William Florence** - Structure by structure by structure.

**Vincent Cestone** - And just for your information there have been many times that there have been illegally built buildings in this town that have been made legal

**William Florence** - Mindful. Whatever it is, it is. I am not here to make judgment on any of the earlier event, but I know when you look at this instance to have a very difficult chore. And I am not, I am just telling you that I had one experience and I was in the Appellate Division and my client said you mean they are going to make me take down that shopping center? And Judge \_\_\_\_\_ said, brick by brick. And that is basically the lesson that I learned there that stuck in my brain all these long years. So I know the instinct for forgiveness, the instinct for well letting it slip has repercussions. And in this case, we foresee it turn it into an overuse and an over burden of the access to the property.

**Vincent Cestone** - So the issues before us, you infer that something else is being done on the property, what did you mean by that?

**William Florence** - I inferred that Mr. Giusti's business is the structural steel business in the City of Peekskill and so this looks like a good candidate for a shadow storage.

**Vincent Cestone** - But you have no first hand knowledge that it is actually being used as that

**William Florence** - We have never been on the property

**Lenny Lim** - What are you using the building for

**Dominick Giusti** - To store cars

**John Hirsch** - To store his cars. You want to see pictures. It's a garage.

**Vincent Cestone** - Does any of the board members have any questions for the testimony so far?

**John Hirsch** - That isn't a testimony. That's a statement.

**Vincent Cestone** - Thank you for your correction. So, anyone else wish to speak on this?

**William Florence** - Do you want me to sit down?

**Vincent Cestone** - Are you done with your presentation?

**William Florence** - Well yes. I am available to answer questions. I am not familiar with how you feel comfortable with running your hearing and I will be adaptable to whatever is convenient for the board.

**Amy Zamenick** - And just for the record before anyone speaks I also ask that they state their name very clearly so that it is on the tape. Just so there is no outburst and it is not documented on the tape

**Vincent Cestone** - Someone wish to speak? You wish to speak?

**John Hirsch** - I wish to speak briefly for Mr. Giusti. My name is John Hirsch and I am from Peekskill, NY. I'd like Mr. Giusti to be sworn in so that he can offer testimony in response to the question

**Vincent Cestone** - Sworn in?

**John Hirsch** - You don't do that?

**Vincent Cestone** - We don't do that

**John Hirsch** - Can I let him testify in response to Mr. Lim's question? He can tell you what he does with his garage

**Vincent Cestone** - Well you can either speak for him or he can speak for himself

**John Hirsch** - Mr. Giusti stores his cars. I have brought copies of photographs taken today of the use of the garage and the carport. There is no plan to use this as a commercial building. It is a storage area for cars. Mr. Florence has written to you on more than one occasion talking about the grand \_\_\_\_\_ plan. There is no plan. It is a neighborhood squabble. Mr. Mordhorst and Mr. Giusti disagreed about maintaining his private road for many years. If Mr. Mordhorst has a problem with the way is maintained or not maintained he knows what to do with it. Whether he goes to the Appellate Division or goes to the Supreme Court in Carmel, but this forum is not the forum to do it. The building inspector wrote a letter to your board on November 14<sup>th</sup>, today,

**Vincent Cestone** - Let me just ask you a question

**John Hirsch** - Sure

**Vincent Cestone** - It was built without a building permit

**John Hirsch** - Correct

**Vincent Cestone** - When was the C of O issued or hasn't it been issued yet

**John Hirsch** - It hasn't been issued yet. The building permit application in the Spring or Summer of this year. The building inspector made an inspection. He wrote a report to the board and he tells you that the granting of the building permit was proper in all respects. And he directs the board's attention to the two violations claimed by Mr. Mordhorst with respect this garage and carport and he says in his conclusion a review of the building permit, and both of them the garage and the carport, issued for the accessory use of car storage, household storage and maintain of the tractor and yard equipment is in compliance with the zoning law. It is in compliance. So I would ask that the board sustain the building inspector's determination and his written determination of November 14<sup>th</sup> and let the proceeding be dismissed.

**Paula Clair** - Can I ask you something

**John Hirsch** - Sure

**Paula Clair** - How many cars are in this storage

**John Hirsch** - 5 cars and a tractor

**Dominick Giusti** - 6

**John Hirsch** - 6 cars and a tractor

**Paula Clair** - What kind of cars

**Dominick Giusti** - A 1963 Thunderbird,

**Paula Clair** - Can you state your name

**Dominick Giusti** - I'm Dominick Giusti. I own the property. I have a 1963 Thunderbird, a 1965 Buick Riviera, a 1969 Jaguar, a 1987 Jaguar, a VW Bing (?), an El Camino, a Ford Tractor, a couple of motorcycles

**John Hirsch** - And some wood

**Dominick Giusti** - And some wood. On the backside you can see some wood.

**Paula Clair** - When did you widen the road

**John Hirsch** - He didn't widen the road

**Dominick Giusti** - I didn't widen the road. Nobody maintained the road. My neighbor Alan is here. Me and him are the only ones that plow. It was so bad a couple of years ago that I regarded it and cleaned it up so that the water would pitch in the right direction

**Robert Dee** - You didn't take down any trees

**Dominick Giusti** – no. It was as wide as it was when we first went in there

**Robert Dee** - Question asked...inaudible

**Dominick Giusti** - About 30 years

**Robert Dee** - 30 years. Let me ask you, why did you build these two buildings without getting building permits

**Dominick Giusti** - Honestly I thought it was on my site plan from way back when. We were paying taxes on it,

**Robert Dee** - You were paying taxes on it

**Dominick Giusti** - On the one building, the main structure. I put a carport up first

**Robert Dee** - The first structure

**Dominick Giusti - The house**

**Robert Dee - There are two structures there right**

**John Hirsch - There are 3. The house, the garage and the carport**

**Robert Dee - The 2<sup>nd</sup> structure didn't have a building permit**

**Dominick Giusti - But I did it about the same time as the house. I thought it was on the site plan for the whole thing**

**Robert Dee - The 3<sup>rd</sup> structure you built, did you get a building permit**

**Dominick Giusti - No**

**Robert Dee - Now you understand there is concern that this could be used for storage for your business. That's a possibility. I am not saying it is. I am just saying that it is a possibility**

**Dominick Giusti - It's all about the road.**

**Robert Dee - I can't get involved about the road. There are two buildings built without building permits**

**John Hirsch - Yeah but it is all about the road.**

**Vincent Cestone - Anything else to present?**

**John Hirsch - No we're done**

**Vincent Cestone - Mr. Donohue?**

**Kevin Donohue - Mr. Chairman I forgot to present the file to you for your review.**

**Vincent Cestone - Okay**

**Kevin Donohue - One green folder is for the house and one green folder is for the two accessory structures**

**Vincent Cestone - And there is CO**

**Kevin Donohue - No. There is a CO for the house.**

**Robert Dee - But there is no CO for any of the structures**

**Kevin Donohue - Either accessory structure, that is correct**

**Robert Dee** - Number 2 and Number 3 have no CO

**Kevin Donohue** - That is correct

**Robert Dee** - Okay. Are they in the original site plan?

**Kevin Donohue** - I did not check that. That was not brought to my attention.

**Robert Dee** - You have no intention of issuing a CO until this is concluded right

**Kevin Donohue** - That would not be true. I have not gotten to the point where a CO can be issued, Deputy Inspector Emerick was out at the site and noted two items and once they are corrected then a CO can be issued.

**Robert Dee** - But my question is if this is held over to the next month or something like that, you could possibly issue a CO before we meet

**Kevin Donohue** - I think, and I am only realizing right now that your hearing the appeal, so that is a stay on anything I do. So I don't do nothing until the conclusion of your hearing

**Amy Zamenick** – just so we can clarify Mr. Donohue and we can clarify what we saw in the photos, we saw a large garage structure which had cars in the photos. Is the carport attached to that or is it a completely separate structure?

**John Hirsch** - Separate structure

**Amy Zamenick** - Separate. I just want to make sure that we are clear on it.

**Vincent Cestone** - How many acres is the total property

**Dominick Giusti** - We have two parcels. One is 9 and one is 11.

**Vincent Cestone** - And your nearest neighbor other than the applicant

**Alan Monks** – Here I am

**Vincent Cestone** - And can you see the structures

**Alan Monks** – no I cannot

**Vincent Cestone** - Would you like to speak on, just introduce yourself

**Alan Monks** – Okay. My name is Alan Monks and I have a parcel of land between Mr. Mordhorst and Mr. Giusti. No I cannot see the structures from my

house at all.

**Vincent Cestone** - Do you have any issues with these structures

**Alan Monks** – No I don't

**Vincent Cestone** - Anyone else wish to speak on this

**Kevin Donohue** - Mr. Chairman, regarding the question that you asked. I am just going to show you the site plan. This is what the building permit referred to, the structures and where they are located on the property. I wouldn't look at the scale, it is not to scale. It is just identifying the location on the property for setback compliances.

**Vincent Cestone** - I am surprised Watson signed it.

**Kevin Donohue** - Again, with the accessory structures we just need the best information available. And since the property is large, the representation is accurate as compared to other maps.

**Vincent Cestone** - These look like they were drawn in afterwards

**Kevin Donohue** - Mr. Chairman, this is not the original drawing. That was used to obtain the building permit for the two accessory structures. That is the site plan from the file. It is a copy of the existing map and what the Town allowed is that you come in and representation of where those structures are. The smaller lot the more accurate. This indicates where when you approach and its relationship to the house those two structures are on the site.

**Vincent Cestone** - These look like they were drawn in so these are not engineering drawings

**Kevin Donohue** - No. And generally we do not take professionally sealed plans for it, accessory structures.

**John Hirsch** - We have engineering drawings if you need it

**Kevin Donohue** - Let me clarify. The two buildings have engineering drawings. Just not the site plan.

**Robert Dee** - Just to understand what you do, the structures are built and then you go and make sure that they are not in the setbacks

**Kevin Donohue** - As indicated on the plan. Again there is another plan in the house file

**Robert Dee** - Is there a survey of the property with the structures on it

**John Hirsch** - Other than that, I would say no.

**Robert Dee** - So this has not been up-dated since. And this is not to scale

**John Hirsch** - For accessory structures, it is not required in Philipstown.

**Robert Dee** - But we are talking about two buildings that don't have permits

**John Hirsch** - Understood.

**Kevin Donohue** - This is a survey of the location of the house. If you compare it to the where the accessory structures are located, they are well within

**Vincent Cestone** - I see. This is drawn to scale

**Kevin Donohue** - That is a survey stamped by a licensed surveyor

**Vincent Cestone** - Badey & Watson

**Kevin Donohue** - As opposed to the other plan which is a subplan

**Vincent Cestone** - Okay

**(Talking among each other)**

**Robert Dee** - The survey that Badey & Watson signed only had the house on it, nothing else is on it

**John Hirsch** - That's right

**Vincent Cestone** - Do you have any engineering drawings with the two structures drawn to scale on the land. Actually drawn by an engineer. On a survey

**John Hirsch** - Engineer plans

**Vincent Cestone** - Do you have a survey with those two accessories drawn to scale in the survey

**John Hirsch** - An up-dated survey

**Vincent Cestone** - Yes

**John Hirsch** - The answer is no.

**Vincent Cestone** - Mr. Donohue do you have anything additional to add

**Kevin Donohue** - No. I was here just in case you had any questions. I am going to put these files back together

**William Mordhorst** - My name is William Mordhorst and I just wanted to make a comment on the statement that Mr. Giusti was under the impression that they were all on the original site plan. If I understand that, I would say that the house was built in 1980 and for the record there is a statement on the application for the C of O that says that the garage was built around 1985 so it doesn't seem to be on the original site plan and that the aerial photos that I showed don't include the carport. So I don't see how they were all built at the same time.

**(inaudible)**

**Vincent Cestone** - Did you go to the planning board to get a subdivision or

**John Hirsch** - They were a \_\_\_\_\_

**Vincent Cestone** - The reason why I am asking is because you keep saying site plan and that is something that the planning board uses

**John Hirsch** - Oh I didn't say site plan

**Vincent Cestone** - You said the original plan had these structures on it

**John Hirsch** - The plan underneath that you were looking at that he took away. That was super imposed

**Vincent Cestone** - But there is no evidence, that says 1979 on the plan but it was filled in

**John Hirsch** - Yes it was drawn in

**Vincent Cestone** - That's not a legal document

**John Hirsch** - Understood. He didn't require an up-dated survey in order to get a building permit. He didn't ask for it. Is that accurate sir? That you didn't require an up-dated survey?

**Kevin Donohue** - Yes

**John Hirsch** - Okay

**Vincent Cestone** - Would should this board do

**Lenny Lim** - I would like an up-dated survey

**Robert Dee** - I would require an up-dated survey before we can look at it.

**Lenny Lim** - Exactly

**Robert Dee** - How do we know how many buildings are there. We are looking at a square box on a piece of paper. The gentleman said he never even went on the property

**Kevin Donohue** - Mr. Chairman

**Vincent Cestone** - Yes

**Kevin Donohue** - There are engineer plans of the size of the building.

**Vincent Cestone** - Any more questions from the board?

**Amy Zamenick** - Also, Mr. Chairman, Mr. Mordhorst's attorney had handed me copies of the aerial photos. I don't know if they had been submitted to the board. Just checking.

**Vincent Cestone** - The four questions that you have us to review, we are not going to decide this tonight because this a lot of this we just got today or a day or so ago. But those four questions, I am going to ask you if you can get something, either email it to Kim, the four issues are...#1 is this, this is the section of the code, this is why you think it is a violation, this is the outcome we are looking for for that section. Because what we are going to do too is we are going look at this under the five factors

**William Florence** - Okay

**Vincent Cestone** - And we will make our decision based on that

**William Florence** – Sure

**Vincent Cestone** - And the reason I am asking you to help us is because it is a little

**William Florence** - It is my obligation to you to make some sense for you

**Vincent Cestone** - Are we going to require a survey? Can we require a survey?

**Amy Zamenick** - I don't see why you couldn't. They are not looking for a variance of any kind, so I don't know why would by the five factors. They are

here for an interpretation. But we can discuss that further as he clarifies

**William Florence** - I can expand on each of the questions and I can circulate

**Vincent Cestone** - If you would so that it can be clear to us. And if you would like to do the same thing, you will have access

**John Hirsch** - I would like the site inspection

**Vincent Cestone** - And you can respond to that in writing

**John Hirsch** - Of course

**Vincent Cestone** - Absolutely.

**Robert Dee** - I'd make a motion that we ask for a survey to know what's on the property, what sizes they are, so they are not just boxes drawn in

**Lenny Lim** - I'll second

**Vincent Cestone** - All those in favor

**All Board Members** – aye

**Amy Zamenick** - All right are we also making a motion to adjourn the public hearing? Are you closing the public hearing or adjourning it?

**Vincent Cestone** - No we are going to leave it open

**Amy Zamenick** - Okay

**Vincent Cestone** - We just did that for the survey

**Amy Zamenick** - Okay, I was just checking

**Paula Clair** - I have a question, you said that Mr. Giusti has widened the road, he says he hasn't. What evidence do you have that he has widened the road?

**William Mordhorst** - I submitted pictures

**Vincent Cestone** - But there is no before and after. And how do we know that you didn't do that? I am not saying that you did

**William Mordhorst** - I understand. Fortunately I have a job and I am not there at times. But I have any evidence, I have a picture of him on a piece of heavy equipment widening the road. Can I put a copy of that picture in your folder?

**Vincent Cestone** - We are not even going to address that because that's

**William Mordhorst** - I was just addressing the question. But I think there is a photo there that indicates that he is widening the road in a piece of equipment

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**Vincent Cestone** - A motion is on the floor and seconded to require a survey. All those in favor?

**All Board Members** - Aye

**Vincent Cestone** - Opposed

**(no response)**

**Vincent Cestone** - At the next meeting if you could have a survey.

**John Hirsch** - And the next meeting is January or December?

**Vincent Cestone** - We will do it in January. There will be plenty of time to do that

**John Hirsch** - You will have it in advance

**Vincent Cestone** - I know these people don't turn it on a dime

**John Hirsch** - No, Glen will do it. What date?

**Kim Shewmaker** - The 9<sup>th</sup> or the 23<sup>rd</sup>?

**Vincent Cestone** - The 9<sup>th</sup>

**John Hirsch** - 1.9.12

**Vincent Cestone** - Yes

**John Hirsch** - Just so we are clear, we are going to give you a survey of the property, the house and the two accessory structures

**Robert Dee** - Any building that is on the property

**John Hirsch** - Okay fine

**Vincent Cestone** - Scale

**John Hirsch** - Dimensions and everything. We will have it done. See you on 1.9.12

**Vincent Cestone** - Yes sir?

**William Mordhorst** - Can I request that the Town provide you with a list of all the buildings that are 2500 square feet and already zoned so we can establish what is customary

**Vincent Cestone** - You welcome to go look for yourself in town hall but we are not going to do that

**William Mordhorst** - Okay so you are going to make a decision without knowing how many comparable buildings there are and what is customary

**William Florence** - We already suggested that there aren't any in the neighborhood

**Vincent Cestone** - Right

**William Florence** - And until somebody says there are, we think it's too big.

**John Hirsch** - Please take a look. Please come and see what is in the garage.

**Vincent Cestone** - The board members can only do site visits one or two at a time. Anything more than that it becomes a public meeting.

**John Hirsch** - Thanks for having us

**Vincent Cestone** - With that the public hearing is still open, just adjourned until January 9<sup>th</sup> where we are going to have a survey well ahead of that time and we are going to have the four areas well ahead of time and both parties can have access to that record here in Town Hall

**Amy Zamenick** - Can I have a motion on that? On the public hearing. Do we have a motion on the public hearing?

**Vincent Cestone** - We've never done that before.

**Amy Zamenick** - I'm sorry.

**John Hirsch** - We understand that the board is continuing this hearing on January 9<sup>th</sup> 2012. If that is the Board's intention everybody can

**Vincent Cestone** - For our attorney's sake, I make a motion to adjourn this public hearing until January 9, 2012.

**Lenny Lim** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Amy Zamenick** - Thank you

**Vincent Cestone** - Anyone else wish to speak related to other business? We are not going to do the minutes because we haven't had a chance to review them. I don't think there is anything else on the agenda. I make a motion to adjourn

**Lenny Lim** - I make a motion that we all have a good holiday

**Vincent Cestone** - Those in favor

**All Board Members** - aye

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

**DATE APPROVED:** 1/9/12

Respectfully submitted,



Kim Shewmaker  
Secretary