

# ZONING BOARD OF APPEALS

April 12, 2010

## MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, April 12, 2010, 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
	Adam Rodd	-	Counsel

### ABSENT:

you get it Adam? That's the only thing I saw that was missing.

**Adam Rodd** - Yeah. Is Mr. Timmer here?

**Theodore Timmer** - Yes

**Adam Rodd** - Okay. It looks to be in order. As I understand it the applicant wishes to construct a deck to the rear of the house and if anything is not correct, just jump in. The property is in the R-40 District. It requires a 20 foot setback and I guess based on the drawings, the deck is going to come within 5 feet 2 inches of the rear setback.

**Theodore Timmer** - And there was a deck on the back of this when we moved in, and it was much closer to the line.

**Adam Rodd** - Okay

**Lenny Lim** - Do you have pictures of that deck?

**Theodore Timmer** - I took photos. I can bring the photos in

**Lenny Lim** - Of the old deck

**Theodore Timmer** - Yeah

**Lenny Lim** - Bring them in then

**Theodore Timmer** - Okay

**Lenny Lim** - You said the old deck was larger, I didn't know that

**Theodore Timmer** - Yeah it was slightly, it was on the old survey by Kilmire but nobody can seem to find that. And I can't seem to find it either.

**Vincent Cestone** - Any information you can bring would be a help

**Theodore Timmer** - Okay

**Vincent Cestone** - great. So we are okay. We are going to put you on our next meeting which is May 10<sup>th</sup>. Again, only one meeting. We just don't have any business.

**Theodore Timmer** - So I'll bring those pictures. Anything else I should bring

**Vincent Cestone** - Anything that you think is relevant. We don't know of any questions we may ask but, bring as much as you feel is necessary

**Theodore Timmer** - Thank you

**Vincent Cestone** - Review of minutes of March 8<sup>th</sup>. Do we have anything to correct? Motion to accept the Minutes as submitted.

**Paula Clair** – I move

**Vincent Cestone** - I second. All in favor?

**All Board Members** – aye

**Vincent Cestone** - Alrighty. We are still going to be done before 8 o'clock.

**Adam Rodd** - You want to take care of 20 Nazareth Way.

**Vincent Cestone** - Okay. 20 Nazareth Way with respect to Appeal 866, 20 Nazareth Way the board is presently awaiting a report from the Planning Department in as much as a request for special use permit. However, pending the receipt of the report, it is appropriate that we vote to declare that the application represents a Type 1 action under SEQR in a coordinated review. Accordingly I move that this is a Type 1 action under SEQR in a coordinated review and I move to declare us as

**Adam Rodd** - I think it says

**Vincent Cestone** - And that the board is intended to declare itself lead agency. I'll make that motion, do I have a second

**Bill Flaherty** - I'll second

**Vincent Cestone** - All in favor

**All Board Members** – aye

**Vincent Cestone** - Roll call vote, do we need it

**Adam Rodd** - Yeah

**Vincent Cestone** - Okay.

**Lenny Lim** - I vote in favor

**Robert Dee** - I vote in favor

**Paula Clair** - I vote in favor

**Bill Flaherty** - I vote in favor

**Vincent Cestone** - And so do I

**Town Board Member** - Could I have a copy of that

**Adam Rodd** - Of the

**Town Board Member** - Of the statement

**Adam Rodd** - It is not a formal resolution. It is just, actually it will be memorialized in the minutes

**Town Board Member** – Okay. I'll just report back to the town board

**Vincent Cestone** - We just declared ourselves Lead Agency in the SEQR process. And that's all we are doing and when we do a SEQR when they come back to us, there is a whole process

**Town Board Member** - And you are declaring yourselves Lead Agency

**Vincent Cestone** - yes

**Adam Rodd** - It is not on for a public hearing yet. The planning board has to give us a report. And we are going to get Ron Gainer involved because he is going to handle all the SEQR aspects of this. Which is a lot of mailings and engineering review. But we are lead agency. It is a quirk in the Code in that we handle Special Use Permits unlike almost every other zoning board. This is normally a planning board matter

**Vincent Cestone** - That will change if the Code is changed. If the Town Board lives through it. Okay. You're up. Resolutions.

**Adam Rodd** - Okay. We will start on Trencher. I will read the resolution up through

**Vincent Cestone** - Is this the one that I talked to you

**Adam Rodd** - Yes

**Vincent Cestone** - Just to bring you up to speed. Just to make it a little bit cleaner in the building department even though it was not required, I asked Adam to change the resolution to reflect a front yard setback

**Adam Rodd** - Correct

**Vincent Cestone** - Just so that it is in the package for this piece of land that is has been granted. So that is the change that I made. All right Adam, I'm sorry

**Adam Rodd** - The Philipstown Zoning Board of Appeals conducted public hearings on February 8, 2010 and March 8, 2010 to hear the appeal of the applicants, Eric and Brittney Trencher, from the denial of their request for a permit to enclose an existing unheated 28' foot by 7' foot 10" inch porch to create a sunroom. The applicants' property is located at 15 Brookview Lane, Garrison, NY 10524. The existing porch is set back 7.5' feet from the left side property line, and is set back 27' feet from the street line. Section 175-32, Schedule B, Item 7 requires, in the R-10 District, a minimum set back from the side yard lot line of 10' feet, and Section 175-32, Schedule B, Item 6(b) requires a minimum set back from the street line of 35' feet. The applicants have filed an appeal from the denial of their request for building permit, and now seek area variances from the Board. At a public meeting of the Board on February 8, 2010 and on March 8, 2010, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to the Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it resolved, that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the Balancing of equities weighs in favor of granting the appeal of Eric and Brittney Trencher from the denial of their request for a building permit to enclose an existing porch to create a sun room on their property located at 15 Brookview

Lane, Garrison, New York, despite an insufficient side yard set back of 7.5' feet and despite an insufficient street line set back of 27' feet. The grant of the subject area variances, with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance. 1) The existing porch located at 15 Brookview Lane, Garrison, New York shall remain set back at a distance of not less than 7.5' feet from the side yard lot line, and at a distance of not less than 27' feet from the street line. 2) The subject porch shall not be used as an additional bedroom or otherwise for rental purposes. 3) No enlargement, reconfiguration or extension of the existing porch except for the proposed enclosure and conversion to a sun room, for which the above-referenced variance has been granted, is authorized without prior Zoning Board approval.

**Vincent Cestone** - I make a motion to accept the resolution as submitted.

**Bill Flaherty** - I'll second

**Vincent Cestone** - All those in favor

**All Board Members** – aye

**Vincent Cestone** - Roll call vote

**Lenny Lim** - I vote in favor

**Robert Dee** - I vote in favor

**Paula Clair** - I'll vote in favor

**Bill Flaherty** - I vote in favor

**Vincent Cestone** - And so do I

**Adam Rodd** - Next I'll do Cynthia Wing. Reading through conditions. The Philipstown Zoning Board of Appeals conducted a public hearing on March 8, 2010, to hear the appeal of the applicant, Cynthia A. Wing, from the denial of her request to obtain a Building Permit. The applicant's property has a street address of 1100 Old Albany Post Road, Garrison, New York. In this application, the applicant seeks to construct an addition to an existing cottage which does not meet the street line setback requirements. Section 175-32, Schedule B, Item 6(b) of the Zoning Code requires, in the R-80 Zoning District, a minimum setback from the street line of 40' feet, whereas the structure which the applicant seeks to add to has a street line setback of 27' feet. The applicant has filed an appeal from the denial of her request to obtain a Building Permit, and seeks an area variance from the Board. At a public meeting of the Board on March 8, 2010, and upon all discussion and testimony that preceded it, site visits made by

individual Board members, and a review of all submissions and proof submitted to the Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it Resolved, that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing of equities weighs in favor of granting the appeal of Cynthia A. Wing from the denial of her request for a building permit for an addition to an existing dwelling located at 1100 Old Albany Post Road, despite an insufficient street line setback of 27' feet. The grant of the subject area variance, with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance. 1) The existing building located at 1100 Old Albany Post Road, Garrison, New York shall remain set back at a distance of not less than 27' feet from the street line. 2) The subject addition shall be built and configured in accordance with the plans submitted to the Board from Rayex Design, Planning and Construction dated October 22, 2009. 3) No enlargement, reconfiguration or extension of the proposed addition to the existing building, for which the above-referenced variance has been granted, is authorized without prior Zoning Board approval.

**Vincent Cestone** - I make a motion to accept the resolution as amended.

**Bill Flaherty** - I'll second

**Vincent Cestone** - All those in favor

**All Board Members** - Aye

**Bill Flaherty** - I vote in favor

**Paula Clair** - I vote in favor

**Lenny Lim** - I vote in favor

**Robert Dee** - I vote in favor

**Vincent Cestone** - And so do I

**Adam Rodd** - Next is Joseph Cmar. Reading through conditions. The Philipstown Zoning Board of Appeals conducted a public hearing on March 8, 2010, to hear the appeal of the applicant, Joseph Cmar, from the denial of his request to obtain a Certificate of Occupancy. The applicant's property has a street address of 2 Ferris Drive, Philipstown, New York. In this application, the applicant seeks to maintain his existing residential structure, despite an existing insufficient street line setback. Section 175-32, Schedule B, Item 6(b) of the Zoning Code requires, in the R-40 Zoning District, a minimum setback from the street line of 40' feet, whereas the applicant currently has a street line setback of 29.3' feet. The applicant has filed this appeal to obtain a certificate of

occupancy, and therefore seeks an area variance from the Board. At a public meeting of the Board on March 8, 2010, and upon all discussion and testimony that preceded it, site visits made by individual Board members, and a review of all submissions and proof submitted to the Board, Vincent Cestone made a motion, seconded by Bill Flaherty, as follows: Be it resolved, that the Zoning Board of Appeals of the Town of Philipstown, Putnam County, New York, determines and finds: That the balancing of equities weighs in favor of granting the appeal of Joseph Cmar from the denial of his request for a certificate of occupancy for an existing dwelling located at 2 Ferris Drive, Philipstown, New York, despite an insufficient street line set back of 29.3' feet. The grant of the subject area variance, with the following conditions, for the reasons set forth herein, shall constitute findings based on the factors set forth in Town Law 267-B. Conditions of the Variance. 1) The existing building located at 2 Ferris Drive, Philipstown, New York shall remain set back at a distance of not less than 29.3' feet from the street line. 2) No enlargement, reconfiguration or extension of the existing building, for which the above-referenced variance has been granted, is authorized without prior Zoning Board approval.

**Vincent Cestone** - I make a motion to accept the resolution as submitted

**Bill Flaherty** - I have one question and that is the existing building located at 2 Ferris Drive, Garrison rather than Philipstown, New York.

**Adam Rodd** - I think it is Philipstown

**Bill Flaherty** - It is in Philipstown. It is in the Town of Philipstown. The physical location is Garrison. The zip code is in Garrison.

**Adam Rodd** - Okay but it is within the Town of Philipstown?

**Bill Flaherty** – Yes. But in the hamlet of Garrison.

**Vincent Cestone** - Okay there is a motion on the floor. Do I have a second?

**Bill Flaherty** - I'll second.

**Vincent Cestone** - All those in favor

Aye

**Vincent Cestone** - Bob?

**Robert Dee** - I am in favor of it

**Lenny Lim** - I'm in favor

**Vincent Cestone** - Paula?

**Paula Clair** - I'm in favor

**Bill Flaherty** - I vote in favor

**Vincent Cestone** - And so do I. Any old business? Motion to adjourn?

**Lenny Lim** - Second.

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

**DATE APPROVED:** May 10, 2010

Respectfully submitted,



Kim Shewmaker  
Secretary