

ZONING BOARD OF APPEALS

July 27, 2009

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, July 27, 2009, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

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

ABSENT:

Vincent Cestone - Just so that the people that are here for the reviews for completeness don't have to sit through the public hearings, I am going to do the reviews for completeness first so those people can leave if they want. First review for completeness is Lynn and James Duffy. Is the applicant here?

Lynn Duffy - Yes sir. I am.

Adam Rodd - Why don't you just give a brief description of what you are proposing to do and why you were sent here

Lynn Duffy - well actually what we are doing is we are going to be removing an existing sun room and extending it 10 feet by making a total new building. We are going to going to the north side just an additional 10 feet but we are a few feet off, we are too close to the front footage. So we have a 5 feet variance from what we should have.

Vincent Cestone - We can't discuss it now but I looked at your application and it did look complete. Does anybody have any comment about the application, does it look complete?

Bill Flaherty - I have a question. On the, paragraph 2, it remains unanswered. And I made a point of it at the last meeting and I still don't have an answer to that particular

question.

Lynn Duffy - Okay. I was never advised that I was on the schedule. I never received a letter saying that I was on the schedule.

Vincent Cestone - Bill was just telling you what you need for the public hearing

Bill Flaherty - I am asking you to fill it in. If you don't get the variance, how could you build what you want to accomplish your

Lynn Duffy - oh okay

Bill Flaherty - if you could give us the answer to that at the next meeting, that would be fine

Vincent Cestone - right

Lynn Duffy - okay

Vincent Cestone - this is just a review for completeness to let you know that everything has been submitted, it's okay, and then we can put you on for a public hearing. You have to be advertised in the paper and it has to be two weeks, so the next meeting, the question has to be answered on the application. Write them up and just submit it

Lynn Duffy - Okay because I did actually do that a couple of weeks ago when I went downstairs, there were two or three questions that were not answered. And I believe that Mariann even looked over it and made sure that I had everything complete on the questionnaire.

Bill Flaherty - Well I spoke with Mariann on Wednesday of last week about your particular application and I pointed out to her that the question was not answered.

Lynn Duffy - She did call me and ask me and I said Mariann don't you remember we even tried to word it out properly that she even helped me answer

Vincent Cestone - I am going to put you on the agenda for

Robert Dee - I have one question

Vincent Cestone - sure

Robert Dee - in your application it says to remove the existing sun room

Lynn Duffy - yes

Robert Dee - then to put a 10 foot addition

Lynn Duffy - yes

Robert Dee - you have already removed the sun room

Lynn Duffy - yes we have.

Robert Dee - I was looking for it and it wasn't there

Lynn Duffy - we had received a permit and unfortunately in error they didn't realize that we needed a variance because we were too close to the front footage. So I received a stop construction. And we are waiting for the variance. So now the house is kind of all open and just boarded up right now.

Vincent Cestone - I am going to put you on for our next meeting. We don't meet in August. So our next meeting is September 14th. That's the earliest we can get you on the agenda. At that time if you could answer those questions.

Lynn Duffy - Is there anyway I can do anything to

Vincent Cestone - if you can get, if you wanted to build the other room if it is not in the setback

Lynn Duffy - we are just extending what was existing

Vincent Cestone - if that room is not in the setback, you would have to talk to the building department but I don't see why you couldn't do that. It is the stuff that goes into the setback you can't build. So anything that is not in the setback you can start work on and the building department can confirm that. I would discuss it with them. But anything that is being built into the setback, the other part that you are talking about in your application, that has to wait until the public hearing. The sunroom that you want to put on

Lynn Duffy - well, the sun room we knocked down and we are making it double sized

Vincent Cestone - but if that structure that you are building is not in the setback, talk to the building department. Maybe they can grant you a building permit to do that part of it.

Robert Dee - It is in the setback

Vincent Cestone - if it is in the setback, you can't do anything until we have the public hearing. I have you on the first meeting. There is no way that we can improve that.

Lynn Duffy - This has been since May. My house is, I've knocked down half my house. There is no way

Vincent Cestone - I have you on for our next meeting. I'm sorry. I don't know what to tell you. It's not like I am saying we are doing it in December. It is the first meeting we have. Sorry. September 14th. The next review for completeness is Robert Ritacco and Wendy Blair.

Robert Ritacco - Hi. I'm Robert. My wife is not here this evening

Vincent Cestone - that's okay. Again, does anyone have anything that they wish to ask related to the application? Anything that you would like to see for the public hearing?

Bill Flaherty - I have none. I reviewed the application and everything seems to be in order.

Vincent Cestone - Okay.

Robert Dee - Just one question. Are you asking for a variance for the pool and the garage? Because the pool is on someone else's property

Robert Ritacco - Well I am not really asking for a variance for the pool because I realize I'm probably not going to get it because it is on

Robert Dee - we can't give you a variance to put it on somebody else's property

Robert Ritacco - right. I am not asking for anything with the pool

Robert Dee - okay

Robert Ritacco - we are just looking for the garage

Robert Dee - that's all my questions

Vincent Cestone - okay. You are on for the 14th also of September

Robert Ritacco - same time? 7:30?

Vincent Cestone - Yes

Robert Ritacco - okay. Thank you

Adam Rodd - just so I am clear. This is an existing garage

Robert Ritacco - when I bought the property back in 1997 it was already there

Adam Rodd - okay so you are looking for a variance to confirm an existing structure

Robert Ritacco - right

Adam Rodd - okay

Vincent Cestone - Next review for completeness is Martha and David Rome

Karen Parks - Hi

Vincent Cestone - Mrs. Rome?

Karen Parks - No. Actually I am Karen Parks. I am representing them tonight.

Vincent Cestone - This is for that shed on the back of the house. Correct?

Karen Parks - No. It's not a shed. This is a one-story addition. And the existing house lies completely within the front yard setback and so we have made every effort to design the addition to be within the setback but in order to connect the two we have a section of the building that falls in the front yard setback

Vincent Cestone - we already filled up September 14th because we already had 2 public hearings on besides the 2 we just put on. So I am going to put you on for the next meeting which is September 28th.

Robert Dee - I have just one question. On your survey where you have your proposed one-story addition which looks like it attaches to a proposed car port

Karen Parks - right. That is actually, that is one of my questions just to confirm that this survey will be effective. The proposed, that hatched area which is actually noted as a proposed addition was actually built in around 2000 and they received a previous variance for that. So this survey was for that addition. And so, that exists as a one-story addition. There was a car port there previously. That structure was there. It was approved. Had a variance for it and has a permit and CO. And this survey was submitted for that application

Robert Dee - Is it a car port or

Karen Parks - it is a structure. It is an enclosed habitable space.

Robert Dee - I think we are going to need a new survey

Karen Parks - okay

Robert Dee - because we need to know livable space

Vincent Cestone - good catch

Karen Parks - so can we still schedule the public hearing because I feel confident we will have it done

Vincent Cestone - just have them in before the meeting

Karen Parks - okay

Vincent Cestone - Okay. Billy Williams

Billy Williams - Hi.

Vincent Cestone - And I looked at your application. Is there any questions from the Board in relationship to this? With that I will put you on the meeting of September 28th for a public hearing

Billy Williams - okay. Thank you

Vincent Cestone - Same time. Okay. Timothy and Mary Donovan. Hi Tim

Timothy Donovan - Hi.

Vincent Cestone - As far as the Donovan application, are there any questions that the members wish to ask

Bill Flaherty - I have none

Robert Dee - I have a question. On your survey you show a proposed barn

Timothy Donovan - yeah. It will be a barn garage with a studio upstairs

Robert Dee - so it is separate from the house

Timothy Donovan - yes

Robert Dee - okay. But on the plans it shows it as being attached to the house

Timothy Donovan - I don't think so

Robert Dee - so this whole thing that you show here is going to be a separate structure

Timothy Donovan - a separate structure yes. It is 28 by 32 or 34. 28 by 32

Robert Dee - this survey was just done I guess recently

Timothy Donovan - yes it was. What happened was I was erroneously given a, there was a mistake that was made and when I went, I had a building permit, and when I went I found out when we looked at the ground and we said, myself and Bobby Dodge, we looked at it and we said we can't possibly put this up in the setback. So I said lets go back through the process and apply for a variance. That's basically what happened.

Robert Dee - Okay

Timothy Donovan - so I ran got a survey done

Robert Dee - standing in front of your house, to the left, is there a car port and some kind of

Timothy Donovan - there is a car port, there is a stream in the back there yes

Robert Dee - okay. Is that car port on your property

Timothy Donovan - oh absolutely. There is a lot of property there. The challenge that we have is that the only place that we can put this actually is right there because of the property

Vincent Cestone - this is not the public hearing

Robert Dee - okay. Next time you come, we want to see all structures on your property

Timothy Donovan - I'll have Matt do that. I apologize

Vincent Cestone - so you are on for the meeting of September 28th

Timothy Donovan - okay. Thank you.

Vincent Cestone - Okay. Now going into the public hearings. The first public hearing is Kerstin Rost and Roland Pidala. Hi how are you doing?

Jurgen Wesseley - Hello

Vincent Cestone - for the Board's recollection, the applicant is asking for an extension of the variance that we granted several years ago and we had asked that the applicant be present

Jurgen Wesseley - and you asked that we have the demolition permit as well as a contract for construction.

Vincent Cestone - Okay. Has the demolition actually started

Jurgen Wesseley - no it has not been started yet because we wanted to wait for the process

Vincent Cestone - okay

Adam Rodd - so just to clarify the record, you are looking to build the same exact structure with the same variances that were granted by the board back in its June 21, 2004 resolution?

Jurgen Wesseley - Correct. Exactly the same

Vincent Cestone - nothing has change

Jurgen Wesseley - no changes whatsoever. Exactly the same way, the way it was. As you might recall it was that Ms. Rost had moved to Florida and shortly after that died and apparently it took a while, I mean I know that her son had initially start to move on that but then he started to sell it and then the market, and finally Mr. Pidala bought the property and he just wanted to get it done the same way it was originally granted because it was a very lengthy procedure in order to accommodate all the different aspects that had to be accommodated for the neighbors. It was a lengthy process. So therefore the house is the same exact way as you had granted the original

Vincent Cestone - is the applicant here

Jurgen Wesseley - yes

Vincent Cestone - Hi. Just introduce yourself

Roland Pidala - I'm Roland Pidala.

Vincent Cestone - You are aware that this structure has to be built exactly as Kerstin Rost had submitted the plans. And you don't have an issue with that

Roland Pidala - no

Vincent Cestone - and when do you plan to do the demolition of this structure

Roland Pidala - right after I get the permit

Vincent Cestone - okay. So you have a demolition permit

Roland Pidala - I mean after I get the approval to continue

Vincent Cestone - so what is your anticipated completion date

Roland Pidala - probably 6 months but that would put us into the winter. So probably looking at finishing within the year

Vincent Cestone - so if you had a year extension you would complete it within that year

Roland Pidala - yes

Vincent Cestone - does anybody on the board have any questions?

Robert Dee - This has been around for a long time. I wouldn't be against a 6 month extension.

Vincent Cestone - It is not done by next year this time we just don't approve it and then they have to go through the whole process again.

Roland Pidala - 6 months we are going to run into weather

Robert Dee - to start. I didn't say to be completed.

Roland Pidala - oh okay

Lenny Lim - I feel that if he has to ask again, no more extensions.

Paula Clair - When did you purchase the property? What was the purchase date?

Melissa Carlton - A month ago

Paula Clair - excuse me

Melissa Carlton - he purchased it a month ago

Paula Clair - and you are whom?

Melissa Carlton - I am Melissa Carlton with Houlihan Lawrence. I sold it to him

Paula Clair - oh okay. I guess you would know then.

Vincent Cestone - Any more questions from the board

Bill Flaherty - I have no problem with this however I want to make this clear that there should be no deviations whatsoever from the original plans that were submitted to this board about 2 years ago. And that has to be adhered to strictly. The issue is so old I don't have these files any longer so I don't know and I can't remember specifically what the plans were other than the fact is I know that we did have a rather large number of people who were against the original plan that was submitted to us and subsequently we went ahead and we did approve that plan. I don't think there are any people here tonight who are going to make issue with that but nevertheless I am going to say again, there can be no deviations whatsoever to these plans as submitted whatever the date was with our building department so that when construction begins they know precisely what you are going to build

Vincent Cestone - because those people down there, they will be here

Bill Flaherty - exactly

Jurgen Wesseley - I am fully aware of this and we have really tried to work very closely with all the neighbors at the time and we found a compromise with everyone, and the neighborhood was really approving of and that is what I made very clear to Mr. Pidala also that it was a very hard situation and we had fight a lot and find a lot of compromises that only upon the way that it is approved that it can only be that way. And also at the time that we discussed this matter with Mr. Monroe in terms of surveys and stake outs, etc etc because these are the very particulars in this particular project especially the side yards, and the front yards and the back yards and the water issue. They were very touchy about that. I made that absolutely clear.

Roland Pidala - I understand there is a history down in that area

Vincent Cestone - does anybody in the audience wish to talk on this matter? If not, I will make a motion to close the public hearing. Do I have a second?

Bill Flaherty - Second

Vincent Cestone - all those in favor

All Board Members - aye

Vincent Cestone - Is anyone against having a vote? If not, Paula?

Paula Clair - I approve

Bill Flaherty - I vote to approve

Vincent Cestone - Lenny?

Lenny Lim - I vote to approve

Robert Dee - I approve

Vincent Cestone - and so do I. But beware. It is a one year extension. If you don't start, we are not going to approve. I want you to be aware of that.

Adam Rodd - To clarify. I think it would be appropriate to pick a date because I will have a formal resolution drafted up for the next meeting and I will put a date by which the construction needs to be completed. So you indicated a year

Roland Pidala - right

Adam Rodd - do you want to make it August 1st.

Vincent Cestone - How about September 1st

Roland Pidala - that's more realistic

Vincent Cestone - because that is a year and then some so it gives you a chance to get started and do whatever you need to do

Adam Rodd - okay so September 1st, 2010 and I will put that in the resolution

Roland Pidala - okay

Vincent Cestone - so you are all set. You can start tomorrow

Roland Pidala - thank you very much

Vincent Cestone - Okay next on the agenda is a continuation of a public hearing for Garrison Contracting. There was supposed to be some documents submitted which I haven't received

David Torrey - we have copies of the site plan for you tonight. We also, we received a copy of the letter from Mr. Klotzle and I have some additional documents to provide in response to that. For example, Mr. Klotzle says in his letter that a violation was issued that had not been satisfied. It has in fact been satisfied and here is a copy of the _____ check satisfying that violation. He also indicates in his letter that the DEC has concerns regarding the creek. Here is a notice of new jurisdiction from the DEC stating that they are okay with the project as proposed with respect to the work on the banks. Again, we have the site plans and I have the engineer with us tonight who can answer all the board's questions.

Adam Rodd - Do you have an extra copy of the site plan, I've never seen one

David Torrey - yes. Mr. Jones has copies of the site plan

Vincent Cestone - now the wetlands inspector is here. I would like to just give him a few minutes and answer some questions to the board. Mr. Klotzle? I understand that you are aware of this property

Mr. Klotzle - yes. I have been visiting Mr. Jones' property since January 2005. And at that time I talked to Mr. Jones about a violation or what I thought was a violation on his property and it had to do with the installation of a septic holding tank besides his building

Vincent Cestone - right

Mr. Klotzle - and I told him he had to come in and get a permit and at some point later on he came in to get the permit and attended one meeting and never came back again. So he never received the permit. I then saw more filling going on in the stream adjacent to the property. I saw Mr. Jones on a bull-dozer one day, stopped and spoke to him about it again and then issued a stop work order. Which I have a copy of here, I think you have a copy of it too. If not, I can supply copies. And that stop work order, that violation, that permit, none of that has ever been satisfied. None of that has ever happened. I don't know who that check is made out to. I was never notified.

Lenny Lim - When was the stop work order issued

Mr. Klotzle - 2/13/06

Vincent Cestone - so a wetlands permit has never issued

Mr. Klotzle - I never signed or issued a wetlands permit in my time as wetlands inspector since 2004

Vincent Cestone - so what are the issues with the land in your experience

Mr. Klotzle - the problem with the land is it is adjacent to Annsville Creek which drains a large water shed on both sides of Route 9 going west to the Appalachian Trail that runs along the crest of the ridge and going east to not as far probably to Graymoor and north along Route 9 quite a ways up almost up to Garrison Golf Course. That drains down eventually into the Hudson River. And the problems with anything along a stream like that is, if there is septic involved is any of the septic at any point going to reach the stream. Generally the CAC and I don't grant permits for wetlands for septic within wetland setbacks, although exceptions have been made and there may be as I said in my letter to the ZBA, there may be some reasons for exceptions here. There is an enviro-guard system that we are looking at that looks pretty good. It might work in a system like this. He would also be storing cars on the site. We would be concerned about gas, oil, washing of cars, there are two ways of pollutants and one way that nutrients could get into the stream.

David Torrey - I believe we stated last time that there would be no washing of cars. The cars are only going to be parked there and this has been a parking lot for over 60 years. There isn't going to be any increased parking there other than what is currently happening and has been happening for over 60 years.

Vincent Cestone - It has never been a used car facility

David Torrey - but a parked car is a parked car whether it is for sale or its being parked there for an active use. As a matter of fact, having a parked car that is stationary and is not moving is probably less intrusive on the land than having traffic coming in and out from people looking at antiques or baskets or anything else

Vincent Cestone - if you have cars that are leaking, you could have an oil leak or a gasoline leak

David Torrey - the engineer will address what the plan says and what they will do to address that issue

Vincent Cestone - I've lived in the town for almost 25 years and I remember that property being not used for years and years and years.

Paula Clair - whenever someone had a business, there were very few cars parked there at all anyway. Unfortunately there has never been a successful business.

David Torrey - Lets hope we can do better now

Paula Clair - I understand that but there are, I don't know, between 15 and 20 cars

parked there at one time. I believe somewhere in that area. And when it was operating as a business, there was no more than 2 or 3. I've lived here for 30 years

Kevin Jones - that's not true because I've been here for 10 years.

Paula Clair - Well, that's my observation

Kevin Jones - I've owned the property for 10 years. So you don't have to tell me that there has not been more than 2 or 3 cars

Paula Clair - I am talking about when it was a wicker store

David Torrey - I mean antidotal evidence of what people remember what it was like 25 years ago is all nice and good

Lenny Lim - well what about if we remember it being abandoned and there being no business there for 2 or 3 years. Does that count?

David Torrey - I'll be honest with you, I can't respond to information that I have no knowledge of and

Robert Dee - I have lived here all my life and it has been abandoned for at least 2 or 3 years where there has been no business there. I have bigger problems. This new survey you just gave us

Kevin Jones - yes, the plan

Robert Dee - the last survey you gave us shows cars you wanted to on and take out that hill and put the cars

David Torrey - the place for 16 spots. Is that what you are talking about

Robert Dee - right. The new survey has 27 spots

David Torrey - it is the same plan

Robert Dee - it is not the same

Engineer - I completely agree. This is the same plan that you guys are looking at right now. The plan that was submitted in May did show 15 parking spots on it. However, at the time our client had just reopened because there had been a judgment against him not to have any cars on the property. He reopened and he found that for his business that he needed to increase the number of parking spots. Now the plan, we are not here

for an approval for the number of spots, we are here for an approval on the variance within the center line of the road. So the Planning Board is the one that makes the decision on the number of spots. If you would like us to move our spots back from the center line of the road, then that

Adam Rodd - if I could just interrupt for purposes of clarification. Because I am a little confused. We were handed today two site plans. Correct?

Engineer - You were handed one site plan

Adam Rodd - well the first site plan the cover page shows 27 spots. Correct?

Engineer - Correct. And the title block shows that it is existing conditions. That is what is currently shown if you went to the lot today, that is what you would find there.

Adam Rodd - Okay. And then the second page shows exactly what

Engineer - we are proposing

Adam Rodd - proposing

Engineer - correct

Vincent Cestone - So Mr. Klotzle can leave, is there any other questions for Mr. Klotzle

Mr. Klotzle - I make a further statement too that this isn't generally acceptable by wetlands code because it needs a 100 foot setback from the stream and related wetlands to qualify for any kind of decision that ZBA, Planning Board, or the CAC or myself might make. And that is not shown on this map. But this property is also apparently within an MS4 which might mean that it requires some kind of storm water plan to proceed any further before any development begins whatsoever.

Adam Rodd - What permit are you claiming that they need

Mr. Klotzle - well and MS4 is an urbanized storm water, most of Philipstown is outside of that area. But there is a district that comes up from Continental Village like two fingers on a hand. One reaches up along Old Albany Post Road and the other reaches up Route 9. And it goes right up on this property and then eventually jumps across the street to include Graymoor and then disappears. And that requires, it doesn't need an acre of disturbance to trigger the storm water loss

Adam Rodd - do you have an extra copy of these plans for Mr. Klotzle

Kevin Jones - yeah sure

Engineer - as far as an MS4 approval goes there is an MS4 official with the Town that has to approve any storm water permit and the storm water permit for them is to approve through the DEC. That's the approval process of it. I don't know who the MS4 official is with the Town of Philipstown

Mr. Klotzle - I will be meeting with him tomorrow and I will be talking about this tomorrow

Engineer - which is fine

Mr. Klotzle - eventually I will probably become the enforcement officer for that section too

Engineer - which is fine. I just wanted to clarify that it is not an approval through the zoning board. It is a DEC permit is what it boils down to.

Adam Rodd - What I would suggest since we just got the plans, if it is okay with you we would like you to review the plans and if you could to provide us, the Board, with a comment letter about your analysis of the plans and any concerns that you may have so that the board has the opportunity to consider that and I think we would need that by one of the September meetings which ever the board is going to put them on for.

Mr. Klotzle - Would you like the CAC to comment on that as well

Adam Rodd - yes.

Mr. Klotzle - That would be appropriate

Engineer - Can I just ask a question, as far as, because the plan was referred from the Planning Board to the Zoning Board, so the Planning Board unless I am mistaken is the Lead Agency for this project, correct? So does that mean that the Planning Board is the one that would issue the wetlands permit. I understand that there are concerns about the wetlands, but having a wetlands permit and no site plan approval is going to be granted until we get it back out of the ZBA and back to the Planning Board which then they may refer us to the CAC. We have no problem going to the CAC, to the Planning Board, we would just like to get a ruling from the ZBA as far as the variance which we came here for. I mean I respect all the issues with the wetlands, but with all due respect, I don't think the wetlands have any jurisdiction over whether or not we can put parking within the required setback where the adjacent properties which have the same stream that run right through them have had approvals from the zba. And I would request that we, I mean, we didn't come to the ZBA for our permit, we were referred

here. I would just request that we have a ruling on our setback

Adam Rodd - I understand your concern. The zoning board is obligated by law to analyze whether the proposal for development is going to have any adverse affect on the physical and environmental conditions. We have to do that as part of the analysis and as part of any grant of the variance. So, we are not doing this to make things up, we are doing this because the Town Law requires us to investigate that and decide whether or not to grant a variance. So that is why we have to go through this process.

Engineer - I wanted to make sure we were on the same path. We are here for a variance not the wetlands.

Paula Clair - I have a question for the wetlands inspector. In the past we have had neighbors of Mr. Jones come forward and stated that they have had flooding on their property that they never had problems before. From your prospective with the addition of these 27 spots, would that be a factor in flooding

Mr. Klotzle - it would have no affect on this, the flood waters coming down the stream at all

Kevin Jones - and by the way, there is no way that could ever happen

Mr. Klotzle - reasonable question

Vincent Cestone - Mr. Klotzle do you have anything you wish to add?

Mr. Klotzle - No that's it at this time

Vincent Cestone - any more questions from the board?

Lenny Lim - This is the final number now? 27 spots?

(Too many talking at once)

Robert Dee - why did you provide this tonight?

Engineer - The top sheet

Robert Dee - yes

Engineer - well to show what is currently operating at the site and then the second sheet, so you have a comparison, that we are not showing, that there are not two cars parked on the property today and we are trying to increase it by ten fold.

Robert Dee - On the original one that you put in with the application you didn't show it

Engineer - right and this is supplemental to what was previously

Robert Dee - so Mr. Jones you are looking to cut those spaces in half basically

Kevin Jones - excuse me

Robert Dee - instead of 27 cars being parked there you are only looking to park 12

Kevin Jones - no

David Torrey - we are going to park 23

Vincent Cestone - where do we find defined parking

Engineer - if you are looking at sheet SG1.2 there is both arrows that point to it. The spots are now numbered as was requested at the May meeting and then there is also a proposed parking chart that shows parking space number, what type of parking is for and the size of the parking spots.

Robert Dee - The size of the parking spots is shown in this box

Engineer - I can't really see

Robert Dee - I see numbers but it doesn't give me dimensions

Engineer - what I am trying to say is that I called out the plan on here, it says 16 proposed vehicle display parking spaces, 10 foot by 18 foot typical. But there is also a proposed parking data chart included on the plan that correlates what the parking space numbers shown on the plan, type of parking and the size of the plan.

Adam Rodd - One thing that the board will need and if it is on here just correct me, but for each spot we would need to know how far the spot is setback from the street line and center line.

Engineer - Which is fine however, we are here for a variance for what encroaches the most correct?

Adam Rodd - Well as I understand the plan here, there are 23 spots

Engineer - on the proposed plan yes

Adam Rodd - on the proposed plan. And the extent that those spots are within the required street line or center line setback, the board would need to know in order to grant the variance, find out how far back each spot is from the street line and the center line

Engineer - okay which I have no problems providing I just want to make sure that, you are granting, you are not granting the variance for each spot, you are going to grant a variance for the spot that encroaches the most

Adam Rodd - we need to know how far back each specific spot is from the street line and the center line

David Torrey - just so we are clear here, there is a row, the outer most road that is closest to the center line. That information you have, it is down there it the 41.7 feet, that data is there

Paula Clair - how far is that from the road

Engineer - there is a center line setback and then there is a street line setback

Paula Clair - okay well how far is it from the road

Engineer - from the center line of the road, the spots are 41.7 feet

Paula Clair - how far is it from the road itself

Engineer - then that is, it is 20.9 feet

Paula Clair - this is 20.9 feet from the road?

Engineer - Yes from the road, correct. This is the edge of the road right here. This is the property line right here. This is the proposed parking right here. This shows the edge of the road here and this shows the 40 foot setback. And all these spots, spots 1, 2, 8, 12, 16 and 20 are 20.9 feet from the street line, from the edge of the road

Adam Rodd - where is that indicated? That you mentioned specific spots are setback a certain number of feet from the street line. Where is that?

Engineer - Right here under the zoning data

Robert Dee - it can't all be exactly the same

Engineer - this line here carries spots 1, 2, 8, 12, 16 and 20 all carry the same parallel

line with the street line.

Robert Dee - But it doesn't show that on the survey. If you look at the survey it shows there is more space between 20 and the street line than _____ doesn't it?

Engineer - This is the property line and this is the street line right here.

Robert Dee - Well it is further here, wouldn't it be further back here

Engineer - no this is the property line

Robert Dee - right

Engineer - but this property line is, this street line is parallel to

Robert Dee - so you are saying that all these cars are exactly the same distance from the middle of the road

Engineer - correct yes. I mean the road runs parallel to the property. It does not run parallel to the property line

Paula Clair - if this is the street line, why don't you have the street line going all the way across

Engineer - it carries across the curb. I mean I can show it, but this curb island. It is a concrete island. It indicates the same line across the property. I can put a dash line in there

David Torrey - if you are looking at what the setback is for the next row back, it is simply the dimensions of the parking space. So it would be 10 feet less of an encroachment than the outer row. And the next row would be 10 feet less of an encroachment than the preceding road

Adam Rodd - I would just ask again if it is a simple matter, because it is not apparent at least, if you are proposing 23 spaces, for each space indicate it is X feet from the street line and X feet from the center line. For each space

Engineer - okay

Adam Rodd - because that's what you are asking for

Engineer - Like I stated, I was just going for what was the most

Adam Rodd - for the board's edification and for my edification in terms of what you are asking for in terms of a variance, we would need to know how far each space is from the street line and the center line

Engineer - Which is, I just, it's a mistake on my part, I just thought you always went with what was the most encroaching

Adam Rodd - well to the extent that the line after the most encroaching line also is within the required setback, you would need a variance for that.

Engineer - I didn't know we were listing out every variance. I just thought we were going for the

David Torrey - if you have a variance for this, by definition you would have a variance for that

Adam Rodd - correct

David Torrey - that's what my

Adam Rodd - well we are going around in circles, if you are willing, you have to tell us what the setback is for each parking space

Engineer - I am willing to do that, it is

David Torrey - it is going to be the same for every row, so it would be the setback for every row

Adam Rodd - if you are telling us that spots 9, 13, 17, and 21 are all X feet from the street line and all X feet from the center line, just tell us because that is all data that we have to plug in.

Vincent Cestone - How far is parking space 23 from the property line. It looks like it is almost on top of it. So you are within the setback from the other side

Robert Dee - side line

Vincent Cestone - the side line setback

Engineer - I will have to clarify but I do not believe that there is

Vincent Cestone - then I need a measurement for that

Engineer - I do not believe, if someone is here that can correct me, I understand what you are asking for. I do not believe that there is a side line setback that you have to keep the cars out of. The parking spaces out of the side yard setback within a commercial. And that is just my interpretation I will check that. Maybe

Adam Rodd - check with the building inspector

Paula Clair - and also I would like to know on the spaces how far each space is from the stream.

Engineer - I can give you the distances from the stream for the spots that are closest to the stream, I have that. I brought that information with me tonight if that is something you would like.

Robert Dee - You have that

Engineer - yes

Robert Dee - are they more than 100 feet

Engineer - no, they are all within the 100 feet of the stream. I mean if that stream is considered a wetland, than the entire property is within 100 feet. I also believe what Mr. Klotzle wrote in the letter from when I read it, he said that the stream isn't the limit of what he can consider a wetland. I mean there can be, I mean wetland isn't just a body of water, it can be an area. So I am quite, assuming the entire property would be within the wetland buffer.

Vincent Cestone - If not most of it.

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

Vincent Cestone - we do need this information so that if we decide to grant a variance, we have to grant an exact variance. And I trust Adam's experience

Engineer - and as far as the history of anything within the wetland, I mean the area that we are proposing to put the parking is, a majority of it is impervious already and it is a rock. I mean the cluster of parking on the property, say spots 8 through 23, I mean that is an existing rock outcropping.

Vincent Cestone - What's your point

Engineer - what I am saying is the environmental impact is you are going from an impervious area to an impervious area

Lenny Lim - didn't the owner say he was leveling that area for parking

Engineer - correct. But what I am saying is it is an existing rock outcropping.

Vincent Cestone - But it is not just draining into the water table and getting into the stream, it's run off. It's all that stuff

Engineer - but there is no change environmentally

David Torrey - actually it would be improved because it can be gravel

Paula Clair - the hill itself right now it doesn't seem like it _____ so you are going back beyond the hill right

Kevin Jones - no ma'am

David Torrey - no we are going to the edge of what is an existing gravel area.

Paula Clair - I haven't inspected it personally but I see it as I drive by it and it doesn't look like it is that big of an area.

Kevin Jones - For what? For what we have proposed?

Paula Clair - As far as all the cars you plan to park

Kevin Jones - the hill has to be brought down to meet the other grade

Paula Clair - so you are going to park behind the hill

Kevin Jones - no. The area will be usable. The hill is here. The hill takes up maybe a third of the area and there is nothing level.

Paula Clair - okay. So you are not going to park on the hill. You are going park, you are going to use the hill as a third of the area and then you are going to park behind it

Engineer - no. The hill will be removed and it will be a flat area. So the cars, there will be no sloping

(Everyone talking at once)

Kevin Jones - ...setback of 41 feet. We kind of demonstrated last week when we brought in a list of 25 addresses and setbacks which are within, which is the same character Route 9 has up and down which is between 25 and 40 feet setback. We are

staying within the same character. In the last week or so I went out and looked at 50 more commercial properties which have similar setbacks within 25 and 35, 40 foot setbacks. We are basically keeping the same character as Route 9 as all the other businesses up and down Route 9 from the Westchester County line to the Putnam Line. Not much is changing as far as business setbacks and we are using those setbacks for cars as far as we can away from the wetlands. And we still are not as close as some other parking lots are to the center line

Robert Dee - I heard you said before, somebody said that there wasn't going to be any water usage on it or something. My concern is being so close to the stream and you wash the cars, I guess you are going to wash the cars

Kevin Jones - no

Robert Dee - you are not going to wash the cars

Kevin Jones - let me tell you something sir. Right now the property, that property probably gets more and so many properties up and down Route 9 because that creek runs up and down Route 9. So I am not the only business on Route 9. We probably get more coming off Route 9. Just from the traffic going up and down Route 9. We all know. I am not the only business along side that stream.

Robert Dee - I am not saying that. I am asking a question about your particular property

Kevin Jones - all up and down Route 9

Robert Dee - there is a lot wrong with the world but we are talking about this piece of property. We can't sure up all the _____. We are talking about this piece of property. And my question was, and your lawyer said you are not going to wash any cars. Is that what you said

Kevin Jones - that's what we are trying to do sir

Robert Dee - you are not going to wash the cars. Okay. I just asked

Paula Clair - you said try

David Torrey - we can wash cars elsewhere. They do move.

Robert Dee - Okay. No problem.

Engineer - Just so I am clear you want added to the plan the distance for each

individual spot from the center line and the street line and also the distance for each spot from the edge of the stream or whatever is indicated as the wetland to each spot

Paula Clair - right

Engineer - is there anything else that

Vincent Cestone - the distance from the property line on the other side. The Diamond Hill side

Engineer - is that something the legal department is going to look into as far as

Vincent Cestone - everything is on the table

Engineer - okay. So distance to edge of property line

Vincent Cestone - do you know the distance for the wetlands. Could you put that on the

Engineer - I need the wetlands to be delineated before I can put that on the map

Vincent Cestone - well that's what I was asking you. Do you know where

Engineer - no because no wetland delineation has been done on the property

Vincent Cestone - okay

Engineer - I mean as soon as there is a wetland delineation and there is a line out there, it can be added to the plan. I just can't do it know. I can give you the distance is from the stream if we want to use that as an approximate edge of the wetland. I am comfortable putting that on the plan.

Robert Dee - I think that will be fine.

Engineer - all right

Vincent Cestone - any more questions from the board

Bill Flaherty - I have a question relative to the New York State Department of Environmental Conservation has issued you an extension as effect May 1st and this extension expires the 30th of this year. It also says that no one shall commence until May 1st, 2009. I was wondering what kind of work are you going to perform on this lot? Oil changes?

Engineer - That permit was issued as far as the DEC, a plan was submitted to the DEC for the stream bank restoration. And the DEC issued a permit granting our client a permit to do work on the stream bank. However, if he wants to do any work on the stream bank then he would get a stop work order from the Town because they would say he is within the wetland buffer even though he does have a DEC permit to do the work. It is not oil changes. It was just a stream bank restoration. Some of the stream bank had collapsed in and our client was looking to bring the stream bank to its existing conditions.

Bill Flaherty - But you have a used car lot there. You have to do some work on these cars I assume.

Kevin Jones - Sir, we do not repair cars there. We are not doing repairs. We are not a repair shop. We are not a body shop. We have nothing to do with that. All we do is retail sales. We have repair shops we send cars out to. We are not a repair shop, we are not a body shop, we are not a gas station, we are not a jiffy lube, we don't change oil. None of the above.

David Torrey - The car is driven on to the lot and it sits there until it is sold and then it is driven off period.

Bill Flaherty - If there is anything wrong with the car, you don't fix it.

Kevin Jones - No. We send it out.

David Torrey - We send it to a repair shop

Kevin Jones - all we do is sales

Bill Flaherty - I was concerned about no work shall commence until May 1st

David Torrey - that was the bank restoration

Bill Flaherty - nevertheless this permit expires at the end, December 31st of this year. Do you intend to get an extension

Engineer - if the stream bank work has not been completed by that time, our goal is to get all the necessary permits from the Town to do any work there. And we already have the DEC permit to do the work there. So if we don't have site plan approval by the time that time when that permit runs out, then we will go back to the DEC and request an extension.

Bill Flaherty - And this is also true of the sentence you got from Judge O'Rourke dated

March 21st, 2008. And it is hereby suspended effective as of March 17th, 2009 and the suspension of said order shall continue until September 30, of 2009. Now are you going to do the same thing here with this particular document

David Torrey - the purpose of that order was, the Judge was addressing the situation where Mr. Jones had been shut down for over a year by an order to show cause by the Town. We had extensive discovery on that and the basis of that order was a determination by Mr. Monroe that Mr. Jones' property was residential not business. And during deposition he could not explain how he came up with that determination with his own maps and all the maps that he had provided by the Town and when we went back to the Court after that deposition had occurred, I would assume that Judge O'Rourke decided that perhaps the equities weren't necessarily the way they were originally presented over a year ago when the Town had gotten him to shut Mr. Jones' property down. So he issued a Stay for this period of time for Mr. Jones to make the applications and get the appropriate approvals. Mr. Jones has been doing that for the last 4 or 5 months and if we haven't completed the process by the end of September, we may ask the Judge to extend that Stay. He may grant it, he may not. That will be within the decision and power of the Judge.

Bill Flaherty - I understand that. I just wanted to clarify that.

Vincent Cestone - Any more questions

David Torrey - any more questions regarding that. That I am very familiar with

Bill Flaherty - no I don't

Paula Clair - I have a question. This is a very unusual, at least as far as I have ever seen, it says that all profits generated from the automobile sale beginning March 17th through September 30th, 2009 is supposed to be in an escrow account _____ which profits shall not be released until further order of this court. Has this been done?

David Torrey - There was a supplemental stipulation which I am not sure whether you have which stipulated that there were going to be two periods of time in which there was going to be an accounting and a turning over of those profits. We are just coming up on the first period in which the accounting will be provided. So it hasn't happened yet. But that wasn't the request of the board, this was the order that established

Vincent Cestone - we were just trying to understand

David Torrey - and I am trying to explain okay. So what the Judge did is he said lets just put the profits if there are any into an escrow account in the event that for some reason the Town prevails and there are damages, there is a fund of money that the

Town may have.

Paula Clair - When is that supposed to be done

David Torrey - I believe it is supposed to be done at the end of this month

Kevin Jones - another thing the Judge was hoping that in six months somehow we would make some kind of progress with the Town. So we have been to one Planning Board meeting, and we are at the zoning board for four months. So the Judge is kind of looking at everything hoping that we are going to make some kind of progress with this Town before September.

Vincent Cestone - We've made substantial progress

Kevin Jones - I think so. We're doing good

Vincent Cestone - any more questions from the board? Any comments from the audience?

Robert Freeman - My name is Robert Freeman and live at 19 Whippoorwill Pond Road in Garrison abutting this property at Diamond Hill Road. Perhaps I am simply restating the obvious but this is a non-conforming use that is smack in the middle of a residential neighborhood adjacent to a stream. I don't know, there maybe other commercial businesses adjacent to the stream but that really is irrelevant to the decision before this board. The board clearly understands its responsibility and what its dealing with but this property was a non-conforming use because of the wetlands and setbacks when it operated and existed as a wicker store. That wicker store was closed for more than two years by the Town Law that causes a forfeiture of a non-conforming use and I am sure the board needs to look at and will look at the question of whether or not a non-conforming is appropriate and if so, to what extent that non-conforming use is to be permitted. There is an awful lot of talk about reduction of the activity and degradation of the site but the site has been degraded without permits, it has been expanded with permits and to essentially use that as a justification of the use that is there right now I think is not appropriate at all. But I again suspect the board will consider all those things as it goes forward with its deliberations.

Vincent Cestone - Anyone else in the audience wish to speak?

Bob Hilpert - Bob Hilpert. Contiguous property owner. I want to clarify a couple of things. I keep hearing about a DEC permit but the DEC permit, as I understand it, is merely to repair the damage that they did to the stream banks. It is not a permit for anything else. Is that correct?

Engineer - There is also a letter from the DEC saying that they have no jurisdiction on the stream because there is a clearly defined grade and slope for the edge of the stream. So a DEC permit would not be required because

Bob Hilpert - that is different

Vincent Cestone - please address this board

Engineer - I'm sorry. There is a DEC permit to repair the bank. But there is also a determination from the DEC that they have no jurisdiction over the stream because there is a clearly defined grade and slope. So that would mean that there is no DEC

Vincent Cestone - but I understand is that they made the determination that repairing the slope would do more damage than leaving it. Am I right about that

Engineer - the determination is that the stream itself, any work above the stream would not have any detrimental affect on the stream. You would not be affecting it. It is not under the jurisdiction, the stream is in the jurisdiction however anything else to the side, plain and simple there is no buffer. You can do work right up against the edge of the stream because there is a clearly defined break and slope

Paula Clair - it seems to me that they are talking about the septic system

Engineer - well the septic system was given, the plan was given to the DEC and that was the wording that

Paula Clair - you said that they have no jurisdiction about placing the septic system approximately 30 feet from the creek

Engineer - but if you read further, the reason they gave for it, the no jurisdiction is because there is a clearly defined break and slope. If you feel that I am referring to much, I will get a letter from the DEC. Based on what I submitted, I am just privy to more information of what is going on because I submitted the plans for the DEC. It was based on clearly defined break and slope. I am sorry. I didn't mean to mislead the board. I will provide you with the information and the letter from the DEC.

Vincent Cestone - So to answer your question. The DEC basically commented on a septic system application. As far as the soil being placed, being pushed into the stream, I don't think the DEC is part of that. But I was talking to Mr. Klotzle before the beginning of the meeting and he told me that the agency that was responsible for that made the determination that moving the soil would cause more damage than just leaving it in place.

Bob Hilpert - to leave the damage in place

Vincent Cestone - right. Because removing it would be more damaging.

Bob Hilpert - Am I also, it is also my understanding the applicant keeps talking about a hillside, he is trying to bring the hillside down to the rest of the land. But the reason the rest of that land is down is because they created that. Not subject to any site plan approval, that was all dug out.

Vincent Cestone - I remember

Bob Hilpert - that's why that stream caved in. That's why the stream silted in. I watched it. I live next door.

Kevin Jones - What did we create Bob? The hill is here it is rock. What did we create? Please tell us

Bob Hilpert - the gravel base, they talked about the gravel area. He created that gravel area. That was higher in the past. They took it down. That hill now comes like this. It didn't look ten years ago like it does now. It is completely different

Vincent Cestone - I am aware of it

Bob Hilpert - and now they want to bring this hill down to match the other hill they removed

Vincent Cestone - any more comments from the audience? With that, try to get us the up-dated plans as soon as possible

Engineer - okay

Vincent Cestone - because I don't want to delay this as much as possible. And the 14th we already have four public hearings.

Engineer - I would request that we be placed on the 14th. I mean basically this is a public hearing that is being adjourned

Vincent Cestone - I already have four public hearings on for the 14th. So I am going to put you on for the 28th which will make that four public hearings. And what I am hoping is that we can put this puppy to bed at the next meeting

Engineer - that is our hope too

Vincent Cestone - try and get us this information as soon as possible so that the board will have everything at hand and the residents will be able to observe it. Because I don't want to be in a position where it is submitted later because then I have to keep it open so that the residents can look at it. I want to be able to close this.

Engineer - Okay so the 28th of September

Vincent Cestone - yes

Engineer - thank you very much.

Vincent Cestone - And the final public hearing, and I am sorry to keep you so late, is James LaBarbera. So refresh my memory, we are talking about the outside furnace. And we wanted to review the information before tonight's meeting. Does the board have any questions

Bill Flaherty - Well I reviewed the law, that the town board had approved earlier this year, and one of the _____ of that law very clearly states that in no event may any variance be given with respect to setbacks, _____ or lot size when it comes to outside furnaces. I think that is pretty clear that we don't have the authority to over-ride the Town Law in this situation. We can't do anything. We can't grant a variance to you because it just doesn't allow us to under the Law. You have sufficient enough property there that you can move it to another location without a variance.

James LaBarbera - Sure. That would just not make it efficient at all by the time the water gets to the house.

Lenny Lim - I thought you said the further away the furnace is the less efficient

James LaBarbera - yes. Less efficient. Meaning the water won't be hot

Lenny Lim - if you move it back towards the house, it is closer to the house

James LaBarbera - what he is proposing is further back in the property to meet the setbacks of the 75 feet.

Robert Dee - Could you put it back here where this cut out is here. It looked like it would make it to me because it is right behind the house. I don't understand. I don't understand why it has to be so far from the house

James LaBarbera - that would be probably about 100 feet coming around the backside

Robert Dee - but you only need 75 feet

James LaBarbera - but that won't be 75 feet from the boundary line

Robert Dee - oh okay

Bill Flaherty - Adam, correct me if I am wrong with my interpretation of that particular paragraph in the Law

Adam Rodd - which section are you reading from

Bill Flaherty - Page 4. 172 Waivers

Adam Rodd - It says that the Zoning Board of Appeals may vary these regulations so that substantial justice may be done and the public interest secured. Provided that such variations will not have the affect of nullifying the intent and purpose of this chapter or jeopardizing the health, safety or welfare of the public.

James LaBarbera - It doesn't have any affect at all on any of the public

Bill Flaherty - true. And in no event may any variances be given with respect to setbacks, stack height or lot size.

Adam Rodd - Okay.

Bill Flaherty - That is the last sentence in that paragraph. My question is whether or not we can in fact _____ that law undo. I don't think we can

Vincent Cestone - while Adam is reading this, I am going to ask if there are any comments from the audience on this application? Are there any more questions related to this as far as the board is concerned

Lenny Lim - is there any place you can put it where it doesn't come into a variance on your property? Do you have alternatives that you can put it?

Robert Dee - Looking at this here, the rear portion is 79 feet

James LaBarbera - I can put it further away but it is just not working efficiently and that was the whole purpose of coming before the board to make it work efficiently 25 feet from the home. And on the same side as the boiler. I was going to penetrate the foundation right there.

Robert Dee - But you have a distance here of 79.2 feet from the edge of your house on your survey. Could you put it behind there in that little niche that you have there. Then you wouldn't need a variance. You wouldn't have to be here. Here is the corner of

your home. If you look on your survey it says 79.2

James LaBarbera - Right. Then I would have to run the piping all the way around here

Robert Dee - I don't know about the piping but I am saying you wouldn't even have to be here

James LaBarbera - I was looking to put it on the side by the boiler

Robert Dee - I know but you do have a place to put it without needing a variance. You have to run extra pipe. Is that what you are saying

James LaBarbera - it would just make it inefficient. That was the whole purpose of the variance.

Vincent Cestone - So Adam

Adam Rodd - well I think that Bill is correct that variances can be granted by the board with respect to certain aspects of outdoor wood furnaces, but in terms of setbacks, stack heights or lot sizes it precludes the grant of the variance. So, the problem here is the Code specifically requires at least 75 feet from any lot line and you are proposing 15 feet. So I think the issue is is there any way you can get 75 feet from any lot line? If that be the case, it seems that under the local law with respect to this particular use, it doesn't seem that a variance is a possibility.

James LaBarbera - That's the decision, that's the decision

Vincent Cestone - so how do we proceed. Should we vote on this or nullify it so maybe he can get a refund.

Adam Rodd - Well that is something, that is a separate issue in terms of the fees. But with respect to the local law, which I understand went into effect in September of 2008, that is something that is a separate issue that is going to have to be addressed with the Building Department

Vincent Cestone - I just wish we hadn't wasted your time. I apologize for that.

James LaBarbera - Okay

Adam Rodd - well it is an application for a variance to allow for the side

Vincent Cestone - well can we vote to cancel it? Can we cancel his application?

Adam Rodd - Well the applicant can decide to withdraw the application. And we won't have to make a decision. Obviously, you are not going to get your permit but that's what the law says

James LaBarbera - I can't get the permit without the variance is basically what you are saying

Vincent Cestone - the reason why I bring this up is that, if you have a denial, it sits in the property's record forever. If you withdraw it, you don't have a denial. Do you see what I am saying

James LaBarbera - yes

Vincent Cestone - because, and that may or may not work to your advantage. I would be willing to call the building department and say that you withdrew your application. And that the board for the following reasons and maybe _____. I feel sorry about wasting your time. Had I known this when you were applying, I apologize for that

James LaBarbera - I didn't know

Vincent Cestone - I know. Neither did I

James LaBarbera - I was just trying to follow the steps

Vincent Cestone - if we granted it, eventually it would have been caught and you would have to be before us again or you would have had to remove it. And that would have been the worst of all possible things

James LaBarbera - true

Vincent Cestone - better to know now than a few years down the road

James LaBarbera - true

Vincent Cestone - so I am advising you to withdraw your application

James LaBarbera - I withdraw the application.

Vincent Cestone - Okay. Let the record show that the application has been withdrawn. Did we get Minutes?

Kim Shewmaker - No. But I have Mr. Anderson here and he would like to speak with you for a moment.

Mr. Anderson - On Thursday, you had reviewed my application for a special use permit as complete. It went to the Planning Board. I went to the Planning Board meeting and they approved it and sent it back to you. You have evidently have not gotten anything. It was approved and recommended. So,

Kim Shewmaker - public hearing

Vincent Cestone - have we received the referral

Kim Shewmaker - no. But they say that it has been sent back to us. So if you want to set it down for a public hearing in September, obviously I wait for the letter. I have a month before the notices go out anyway.

Mr. Anderson - There is some work involved with setting it up. So I just assume get this in

Vincent Cestone - so if we get, when we get the referral put them on for September 14th

Kim Shewmaker - September 14th if I get the referral letter. Okay.

Vincent Cestone - Kim wanted to bring up something. It is related to

Kim Shewmaker - the timing of when we get our appeals and when they get on the agenda and when they get to you guys. I have one week notice. Like for today's meeting, I had close of business last Monday to pick up any last minute appeals that were being dropped off by the building department. All weekend long I am getting your packets ready, and the agenda and getting everything together to be mailed out on Monday so that you guys have enough time to look at them. But if I come in Monday and there are four or five appeals, like what happened this week when I got four new appeals, that pushed everything back. By the time I got home and exhibited everything and break up files, and redo the agenda, and I have everyone asking "where's the agenda", "where's my packet". I was wondering if we could stretch it out and make it a two week deadline, like the Planning Board, before we get these new appeals on the agenda. Did that make sense?

Vincent Cestone - Well the only thing with 2 weeks is we have two meetings in a month and we want information and they get it to us

Kim Shewmaker - Information is different than a new appeal. The information can still come whenever. I am not going to mail out to Monday. But at least on Monday when I come into Town Hall, I am just stamping. I am not looking for new appeals that have to be broken and the agenda being redone. Any new information can still go in that

packet.

Vincent Cestone - So what you are saying is for only new appeals you want

Kim Shewmaker - the deadline for new appeals give me more than a week. This way it affords you all a chance to look at the applications as well. Because now you are only giving yourself 2 or 3 days and it is over the weekend and you do have private lives.

Vincent Cestone - So instead of Monday you want like the Wednesday before

Kim Shewmaker - you can give me a deadline of the Friday before this way I have the weekend and on Monday I can just come in and stamp and just drop the agenda. I'm not re-doing the packets and agenda again for any new appeals that came in.

Vincent Cestone - Okay. What's the board's feeling on this

Lenny Lim - Give her as much time as she needs

Robert Dee - I mean she was dropping this stuff at my driveway on Saturday morning

Kim Shewmaker - And how much time did you have to look over it?

Paula Clair - I didn't have any time this weekend

Kim Shewmaker - so you didn't have any time. And Adam didn't even get his packet.

Paula Clair - I didn't get home until 6:30 tonight

Vincent Cestone - so what is the board's feeling

Bill Flaherty - would it help if we met on a night other than Monday?

Vincent Cestone - We can't.

Kim Shewmaker - Everybody else uses this room

Adam Rodd - I would just suggest taking a vote that the requirement is that the application needs to be submitted to the ZBA secretary at least 14 days before the next public hearing. Because now we are operating on a 7 day cycle. So you are just giving her another 7 days.

Vincent Cestone - Does the board feel comfortable with that

Paula Clair - yes

Vincent Cestone - I guess we do that as a motion. Somebody want to make the motion?

Paula Clair - I'll make the motion. I make the motion that we require 14 days, the application must be in 14 days before the next meeting.

Vincent Cestone - I second. All in favor

All Board Members - aye

Vincent Cestone - all opposed

(No one)

Vincent Cestone - motion carries

Kim Shewmaker - thank you

Vincent Cestone - okay. I make a motion to adjourn

Lenny Lim - second

Vincent Cestone - all 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: 9/14/09

Respectfully submitted,

Kim Shewmaker
Secretary