

ZONING BOARD OF APPEALS

July 12, 2010

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, July 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.

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

Vincent Cestone - I am going to take things a little bit out of order. I want to do the review for completeness because it is also on for a public hearing tonight. So, Amy, have you had a chance to look at it?

Amy ____ (substitute counsel) - Yes. And the file is complete.

Vincent Cestone - Has the board had a chance to review? Does anyone have any questions on this?

Lenny Lim - Which one?

Vincent Cestone - AnneMarie Reeve. Last item on the agenda.

Lenny Lim - Okay

Vincent Cestone - Okay this board deems this appeal complete. So we are going to have a public hearing on it. First item on the agenda is 20 Nazareth Way, is there someone here to speak for the applicant?

Glennon Watson - Yes. I am Glennon Watson from Badey and Watson. For your convenience these are copies of the presentation material to make it a little bit easier for you to read. This evening I am here with Christopher Buck who is the Principal of 20 Nazareth Way LLC who owns the property. We are applying for a Special Use Permit to convert a residential building into an office space for charitable educational type institutions which is permitted under the zoning law. I

am going to tell you a little bit about the property and then I am going to take you into more detail on the plan. The property is the former Walter Thompson House, a late 19th century house constructed by the Reverend Walter Thompson as a retirement home. It is located along the southerly side of Snake Hill Road. It used to be called Philipse Brook Road when I first got here. Right opposite the intersection of Avery Road. It contains 29.3 acres and it is the residual portion of the estate of Reverend Thompson. The lands on the estate that lie to the east are presently owned by the state. And for those two reasons you classified this as a Type 1 action on the State Environmental Quality review law. The land to the west originally went all the way out to Route 9D. There was a school house out there. There was some 1950's type residential structures out there. And there was a 1970's type subdivision out of that property. And this piece was cut out I believe in the 1970's, that is the home of the Englers. The property is subject to an easement for the Englers to access their property. Our plan, I am going to talk about three areas of the plan, that are shown on an enlarged view, the first area I will talk about will be at the very entrance to the property and we will move up along the driveway and I will take about the second red box at which there is a very minor amount of activity and then I will focus on the main part of the site plan for the project. I put over here a photograph of the Walter Thompson House in its present condition. As you can see it is largely unchanged on the front side. This is the side that faces sort of northwest toward the intersection of 9D and Snake Hill Road. The back is much plainer and the back there have been fire escapes added to the building and such that for a number of years, for all the years that I have been in Town about 30, over 30 years, it was a charitable institution run by a Catholic Order of Nuns for young women. The house is located, the property is fairly rolling, slight uphill grade to the southeast. A hill that runs up to the main house which is on a plateau. Behind the main house there is a very steep upward climb to the _____ which is a revolutionary war fort that is now on the State property. Again we will take a quick look here at the entrance, a quick on your way up into the property, and a more detailed look at the main part of the property. I think a very little bit of activity at the beginning of the property. Essentially 10 feet back from the road line we are proposing a sign for an entrance. We provided a detail of the sign, it's a small relatively small sign. Hopefully you will find that is tastefully done. And that's it for that area. As you come up, there is a temporary what is called a stabilized construction entrance. Probably be more correctly called a stabilized construction exit. And what it really is is a doormat for trucks to run over if there is any truck material that has to be trucked to and from the site and there will be some of that during construction. This is a pad of rocks that the trucks run over to knock the mud and stuff, anything from the site off of the property. And it basically is to protect the remainder of the travel way and to protect the roads from being dirtied from the mud that comes off the truck tires. As we continue past the construction entrance we come up into the main part of the site which is shown in much more detail here on the bottom portion of the map. Continue up the road and come in, this circle to the northeast of the house exists as this driveway and you can see it actually continues down and through the Engler

property. The extent of the activity that we propose with the regard to the building are the addition of an entry way for handicapped, handicapped entrance shown in this reddish brown and the addition of an elevator to provide access between the floors on the inside of the building. We submitted to your engineer for initial review comments with regard to why it is necessary to put the elevator on the outside of the building and we have also submitted that to the State Office of Parks Recreation and Historic Places because as we may have failed to mention this building is listed on the national registry. _____ the northeast corner that this driveway circles under, we are intending to put three parking spaces on the circle to provide fairly immediate access. We are intending to put some parking at the southwest, the southerly portion of this site between two existing buildings. There will be some activity here. The largest single amount of activity is to, is to build a parking lot in this northeast corner of the improved area. This is entirely new. The total amount of parking we are providing is 40 cars. We have three here, we have five or six , we have three to the northwest of the _____ share. We have five or six to the southeast of the building. So this is going to be that difference, about 34 or 35 spaces built in here to the northeast turn of the driveway. The reason we picked this location was to avoid construction activity beyond what we absolutely needed under the code. The number of spaces provided I think is one more than the Code requires. We have looked extensively during the design process towards the area immediately to the east of the building which is still fairly level for about 50 or 60 feet but then it really climbs steeply. The _____ fill required in here was far greater than the eventual parking lot so we eliminated that or another option would have been to build significant retaining walls which we wanted to avoid. By coming over here, we avoid that steep slope and we actually have almost no grading. If you take a close look at the maps that we provided, there is very little grading involved, there is very little disturbance beyond what we need for the actual parking area and for the drainage associated with that. We have built in a collection system, we've tested the ground, we are able in our report to indicate that again we have submitted a preliminary copy to your engineer and we are able to capture any increase in the drainage so we will mitigate any increase or any impacts associated with the increase in the drainage. This may look a little bit unusual in terms of its left hand curve, the impetus with that was that this large, very large specimen tree which we tried very hard to avoid, you see we are outside the _____ line of that tree and well away it. And the other reason why we curved it was really two-fold. One, was to follow the contour more closely and secondly, the second reason was it, if you look at parking lots, in my view and maybe it is my view only, I think the one at Boscobel is a good example of what we will have here. It is curvilinear, it is broken up by little islands for trees and it is, you are not looking down a long straight expansive parking. It is in the woods and we tried to follow the contour and we tried to make it so that it wasn't one big long expanse and we avoided the trees. Another issue that came up during your referral, the review by the Planning Board after your referral to it was a matter of sight distance. And again a report that we have shown, we took the planning board out there, we floated balloons car height bright yellow, 3 foot diameter balloons in the middle of

the winter when there was no foliage and walked and drove and walked along Snake Hill Road and walked and drove along the entrance and there were places where you could spot the balloon, I am not saying you didn't see any, but there were even in the winter, they were minimal. So to mitigate even that impact we called for some screening around this treed parking area to the northwest of the main building and we have planting to break up the parking lot and we have some plantings in front of this parking area again to minimize the impact. All in all we believe that we have minimized the activities that we will be undertaking in order to accomplish the goal of creating this space for charitable and educational institutions. We think we have accomplished it with a minimal amount of physical activity but still accomplishing the goal of our client. With that I would be happy to try and answer any questions you may have.

Vincent Cestone - Explain to me exactly what the purpose of this institution is. You mention, you refer to it, but can you give

Glennon Watson - Well there is no one institution that has been identified. There have been discussions and we have mentioned before that there has been discussions with Shakespeare Festival, with Hudson Highland Land Trust, and with the Garden Conservancy. I don't believe they are tied up yet or they are, no one has made an absolute commitment. But the whole idea is to keep this land active within the scope of what's there. It helps protect the building and it provides a home for those, an opportunity for a home for those types of institutions which we have around Town that don't create a tremendous amount of traffic and are generally seen as beneficial to the Town.

Vincent Cestone - Why are there 40 parking spaces

Glennon Watson - The Town Code has a requirement with regard to office space and this is essentially office space. There is a calculation based on the square footage of the building. For every 200 feet of main floor area you need 1 place, for every 200 square feet of main floor area you need 1 space, for every 250 square feet of other floor area you need one space. So when you add that up, you come up with 40 spaces.

Amy ____ (substitute counsel) - Just for some clarity can you show me where space 7, I believe there are 39. I count 1, 2, 3, 4, 5, 6, and then it jumps to 8.

Kim Shewmaker - There are two space number 19's

Glennon Watson - I guess we have one less space than I thought

Kim Shewmaker - You have two space number 19's

Amy ____ (substitute counsel) - There you go.

Glennon Watson - Oh okay. We'll correct that.

Vincent Cestone - What is the building used for now?

Glennon Watson - Today it is vacant. Up until about two years ago

Christopher Buck - It's been vacant for a couple of years

Glennon Watson - It's been vacant for a couple of years. Prior to that it was a home for unwed mothers. It was run by an Order of Catholic Nuns.

Vincent Cestone - What are the consequences if your special use permit is denied, I want to understand what would become of the property

Glennon Watson - Well I think, I don't know, I don't know the answer to that directly. I mean it is single family residential zoned property. Mr. Buck bought it for this purpose and we haven't discussed alternatives to be perfectly honest with you. I know that those, there are people around Town who are breathing easier with the idea that this will not attract a different buyer who has development plans for the property.

Vincent Cestone - So you have been before the Planning Board

Glennon Watson - We've been before the Planning Board, on your referral. They made their site inspection and they reported back to you in the positive.

Vincent Cestone - Any questions from the board

Lenny Lim - I've got a question, Glen, on the south parking lot, the handicap parking lot, why isn't it closer to the building where the west parking lot is? Why would the handicap parking be further away?

Glennon Watson - There were two things. Originally we had the handicap parking spaces right here immediately to the south.

Lenny Lim - That's what I mean, closer to the building

Glennon Watson - That would require a retaining wall and a lot more construction. This is well within what is acceptable because, in terms of space, the reason we didn't pick these north parking which would be closer to this entrance is because we needed a handicap access and to put a handicap access up here would have affected the architecture of the building much more strikingly and we think less accessibly

Vincent Cestone - Any more questions from the board?

Bill Flaherty - I have a question. If organizations are going to renting the property, it is going to be non-profit. The population will be relatively small. Are there plans to use the property for other than the purpose of which it is intended, for non-profit. **(cannot hear conversation)**

Glennon Watson - Well, we are stuck with the number of spaces unless we apply for a variance and we don't have, frankly, in my view we don't have a good reason to ask for the variance. So from the point of view as why do we have it? We have it strictly to meet the numbers in the Code. If you look at the Statement of Use, the day to day traffic will probably, this will not be used for a good part of the time. Or if it is used it will only be the first few spaces. In terms of other things that may happen, one of the things that I mentioned is I am certain that someone is going to want to have one of those fundraiser cocktail parties that they have, that we have around Town in June and September and that sort of thing. There might be some special event where people are invited to, supporters are invited for thank you cocktail party or something like that. But in terms of any kind of daily use that is going to generate lots of traffic, we expect maybe in the summer when Shakespeare is getting ready there will be more traffic, but other than that, assuming that Shakespeare is a tenant.

Bill Flaherty - The other question that I have is that it is going to be non-profit organizations that will be renting space, is the company that owns the property a non-profit entity?

Glennon Watson - Mr. Buck?

Christopher Buck - No.

Bill Flaherty - It is for profit

Christopher Buck - Well, could it make a profit if it charged enough rent? I imagine it could. The numbers we have been running don't indicate that it is going to, we are looking to allow the non-profits to use the space as you might say a reduced non-profit rate. We will also be bringing in a handyman if you will that LLC would be covering the salary of, it won't be reflected in rents. So, could it make money? Yeah. But it is not.

Bill Flaherty - So what you are saying is that this property which is not currently on the tax roll will in fact go back on the tax roll and be a tax bearing property

Christopher Buck - You know, I'm not. Can I get back to you on this issue. I am not entirely comfortable answering in the absolute right now. But I would be happy to get back very quickly on this.

Bill Flaherty - Thank you

Paula Clair - I have a question also. If you are renting to all non-profits, if it is not fully filled with non-profits, would you be renting to profits?

Christopher Buck - No

Paula Clair - Okay so then, so what would you do if you don't get it fully filled with non-profit organizations

Christopher Buck - We would wait until we had another non-profit that needed the space and I really, the studies, conversations we've had indicate that there is a need. Which is one of the reasons we went in this direction. And we would not put a profit in there, a for profit corporation in there, we would just simply wait until we had the right non-profit to fit in there

Vincent Cestone - If that were a condition of the resolution, would you agree to that

Christopher Buck - Definitely non-profits be rented to... absolutely

Glennon Watson - I think that is our only choice. It is in a residential district and profits simply can't go in there under the law. But we have no objection to a condition.

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

Paula Clair - Does the non-profits that you are going to bring in, could that include you know like non-profit organization like a hospital

Christopher Buck - Could it by law, I am not sure. Have we entertained that, no. And would we, probably not. Because then you have patients coming in and out, I imagine that would get into

Paula Clair - I mean because they are non-profit that are not charities

Christopher Buck - Yes there are. I guess you could call it more of an operating foundation. Someone with clients coming in and it hasn't been our intention to have that kind of traffic at all. Whether we could or not is probably an area of law that I am not sure of the answer to it.

Paula Clair - If it is for profit your organization and you are renting to non-profits, what is the incentive for your

Christopher Buck - Well it was a situation where I was approached by some members of the community who were worried that this property could potentially be developed into one acre zoned housing. And would we be interested, my wife

and I, in buying it and putting it to some use such as this. And it is pretty consistent with my wife and I's philosophy land conservation, smart growth, so we decided to take it on as pretty strictly a philanthropic effort.

Paula Clair - Do you live in the area

Christopher Buck - We live in the City and we have a house on Old Albany Post Road for the weekends. I am also a member of the Board of the Hudson Highland Land Trust.

Vincent Cestone - Sir? Step up and introduce yourself please

Jim Engler - My name is Jim Engler and I, my family I guess are the people most affected by this piece of property. We've lived there for 40 years. And in all that time the Church has owned and operated the property for different purposes throughout the 40 years. Most recently as a Nazareth Life Center. When we were told a couple of years ago that they were closing their doors and were going to sell the property, we were very concerned. For those of you who are familiar with the property it is highly developable. There is a big field in front that property, some 16 acres. And if a developer got a hold of it, we were very concerned that we would have just a bunch of houses down there. Then we heard about Mr. Buck. And in my view, to answer _____, what he has done has been a windfall for the community. He has saved it from the kind of development that might otherwise be. And when I heard he was involved, I contacted him because I wanted to know what he was going to do with the property. Same thing that you people are doing right now. And he was kind enough to come visit with me and talk about it, and sent me a copy of the plans and so forth of what he plans to do. At that time there was an article in the local newspaper that stretched the additional parking spaces. Well half the parking spaces that he has provided on the south end of the building were all there before. That's what the Sisters used when they operated the house as the Nazareth Life Center for their guests and so on. From time to time that house had been used by the Church or functions that would invite considerable numbers of people. And after speaking with Mr. Buck and he satisfied me that he had no intention of developing that property. But we are doing something for the benefit of the community. I was absolutely delighted. Being his immediate neighbor and the one once again most affected by this, I couldn't be more pleased with what is planned and I hope that you folks will see fit to approve the application that is before you. Thank you

Vincent Cestone - Anyone else wish to speak?

Noah Riley - Hi my name is Noah Riley and I live on Route 9D just north of Snake Hill Road, my property actually comes out on Snake Hill Road. Just a couple of quick questions. How many parking spaces were there before what you are proposing, how many additional parking spaces are being

Glennon Watson - I would say there were probably 6 to 8 but they were not defined. They were just sort of where people parked. So it would be probably 6 to 8.

Noah Riley - And the length of time for the project, how long would it take to actually do the construction

Glennon Watson - 6 months

Noah Riley - As far as not for profits, would it be limited to strictly local not for profits in Philipstown or is it going to be kind of any not for profit that wishes to lease space there

Christopher Buck - The three we have identified now are all in Cold Spring, the Philipstown area. I suppose if one came in from out of that area then they would become a Philipstown non-profit if they were housed there. But no, we haven't limited it to strictly by the course of doing business in Town.

Noah Riley - Hudson Highlands is actually looking to move their current location right there on the corner

Glennon Watson - That is being discussed and hopefully that is part of the process but I would just like to make one point, Outward Bound which is a national non-profit had its headquarters very quietly and very demurely on the Mystery Point Property at the Manitou for probably 15 years. It is at least 10 I am sure. And this was a non local not for profit that blended into the community very nicely and I don't think there is a particular reason to be worried about the character of the non-profit and I think that is a good example of why I am saying that.

Vincent Cestone - Any other questions from the audience?

Ann McConaughy - Ann McConaughy and I live on Nelson Lane behind the property. Can you show me where Snake Hill is on the big board and then show me where the driveway from Snake Hill is.

Glennon Watson - To be clear, they are all oriented with North to the right. All of the drawings. They are all oriented the same on the piece of paper. So Snake Hill Road is out this way from here. This is Snake Hill Road it comes in and this curve right here on this littler drawing is this same curve here. So on the larger one you can see the loop driveway, the house, that parking area is not shown on here just for clarity sake and you can see Snake Hill Road.

Ann McConaughy - Okay. And I have another question. This property has been used by children and families for many years for sledding. Would that still be

Christopher Buck - We named it winter hill

Ann McConaughey – okay

Vincent Cestone - Glen I think we have to do the Part 3.

Glennon Watson - You are still due Part 3. I have submitted a preliminary Part 3 to Mr. Gainer for his review. One of the unexpected results when we got a response from the State Office of Parks Recreation was a recommendation that an archeological survey, not a dig, but a survey be conducted in the areas that we are going to disturb. We found out about that about a week and a half ago. We have since engaged an archeologist and he will be on-site next week. So as much as I would like to see you close out SEQR tonight, you are barred from doing that.

Vincent Cestone - Mr. Gainer is there anything that I need to do?

Ron Gainer - No, if the Board is so disposed you may wish to close the public hearing if you don't think there is any more public comment to be expected. And that's as far as you can advance the application tonight. Your immediate obligation upon the close of the public hearing is SEQR and as explained by the applicant's consultant, we have to wait for the archeological study that has been recommended. And with that in hand and presuming that no new information is obtained it may then be appropriate to develop a negative declaration for consideration for the future meeting of the board. And once SEQR is resolved, and a negative declaration is made, then you are free to take action on the application in either to approve or deny.

Vincent Cestone - When do you think the archeological survey will done

Glennon Watson - I would say to be practical your first meeting in September we could close this out. I know you are going to try and have one more meeting in July but to be honest I don't think it will be enough time for him to complete his work.

Vincent Cestone - Okay.

Paula Clair - I just want to clarify one point for myself. So the special use permit will permit office space only not residential space in that building. Right

Glennon Watson - The application includes identifying the caretaker's apartment in this building which already exists. And that will continue. But otherwise there will be no residential use

Paula Clair - Okay. I just wanted to clarify that

Vincent Cestone - Anyone else wish to speak on this? If not, I am not going to close the public hearing just in case someone wants to comment on this at the next meeting. So we are continued on to the first meeting in September which is good for you

Glennon Watson - That's fine

Vincent Cestone - Okay September 13th.

Glennon Watson - Thank you

Ron Gainer - Does the Board want to consider advancing draft resolutions at this time or not

Vincent Cestone - Say again

Ron Gainer - Does the Board want to advance draft resolutions for consideration at that time

Vincent Cestone - Yes. If you can get us the draft resolution ahead of time so we can review it so we are not asking a bunch of questions that would be much appreciated. Thank you. Next item on the agenda is a public hearing for Rodman P. Neumann. Is Mr. Neumann here please?

Rodman P. Neumann - Yes.

Vincent Cestone - Come on up

Ron Gainer - Will I be required to be here anymore tonight

Vincent Cestone - That's it. Thank you. So Mr. Neumann explain to us what is going on

Rodman P. Neumann - Can I give you two things. One has photographs of our site and the second thing is a rendering of what the addition to the garage would look like.

Amy ____ (substitute counsel) - Can you just have a roll call for the separation of the resolutions. Just a vote for the preparation of the draft resolution for 20 Nazareth

Vincent Cestone - I need to make a motion and have a roll call vote

Amy ____ (substitute counsel) - Yes

Vincent Cestone - Okay.

Amy ____ (substitute counsel) - Thank you. Sorry

Vincent Cestone - Pardon me for one second

Rodman P. Neumann - Sure

Vincent Cestone - I make a motion for a roll call vote for a draft resolution. Do I have a second.

Bill Flaherty - Second

Vincent Cestone - All those in favor

All Board members - Aye

Vincent Cestone - Roll call. Bob?

Robert Dee - Aye

Lenny Lim - Aye

Paula Clair - Aye

Bill Flaherty - Aye

Vincent Cestone - Aye

Amy ____ (substitute counsel) - Sorry to interrupt you

Rodman P. Neumann - This is my wife Elise Neumann, and we have this detached garage that is next to a right of way. You can see into the right upper corner as it goes up the road to the house beyond us. And the, as we understand the garage was given a certificate of occupancy in the early 1960's and that was in error and also it is, according to the zoning, too close to the right of way. So what we want to do basically is put a second story, not the entire length of the garage, but just about two-thirds the length of the garage raising the roof about five feet to create enough space so basically we could put a studio workshop space.

Vincent Cestone - Would this space be heated?

Rodman P. Neumann - Yes

Vincent Cestone - Running water?

Rodman P. Neumann - No. No water, no plumbing. It is just a working space.

Paula Clair - How are you heating it

Rodman P. Neumann - Electric baseboard

Robert Dee - So the garage at this time is actually illegal

Rodman P. Neumann - Right

Vincent Cestone - You were cited by the Town

Rodman P. Neumann - When I applied to the permit and they said no because of the circumstances

Vincent Cestone - So it was when you applied for the permit they said that they issued your C of O in error

Rodman P. Neumann - Yes

Elise Neumann - We bought just a year ago. So this pre-dates us

Robert Dee - So you would need a variance for the garage to get a CO for the garage

Rodman P. Neumann - That's correct

Robert Dee - So instead of just doing that you are trying to put space on top of it also

Rodman P. Neumann - Well we are asking for a variance for the garage and

Robert Dee - Two things

Rodman P. Neumann - Yes

Robert Dee - They are together

Vincent Cestone - What you are asking for is a side yard variances

Rodman P. Neumann - Right

Vincent Cestone - And then the ability to have a second story

Rodman P. Neumann - right

Lenny Lim - Are you going to be in the same footprint

Rodman P. Neumann - Same footprint. It is about two-thirds the length of the garage. It is not the entire

Lenny Lim - The extension is coming out the back of it

Rodman P. Neumann - There is, we had the idea of having a place where we can sit, a porch in the back. So the roof does extend in the back about 6 feet.

Lenny Lim - But it is part of the structure

Rodman P. Neumann - Part of the structure. Yes

Lenny Lim - Because on my site visit, I mean it is awful close to your neighbor's road. Do you have a letter or anything or is she here

Rodman P. Neumann - She is here.

Lenny Lim - Both people who share the right of way are here

Rodman P. Neumann - Yes.

Lenny Lim - Any of them object to it

Josephine Montere - Not at all. I am Josephine Montere and I use the driveway to my house. And I don't see any problem with it.

Lenny Lim - Are you the driveway or the right of way

Josephine Montere - The driveway

Neighbor - She is the right of way and we are the driveway.

Lenny Lim - Okay thank you

Vincent Cestone - Any more questions from the board

Bill Flaherty - Yeah. The variances that you are asking for are substantial.

Rodman P. Neumann - Yes sir

Bill Flaherty - And you say in your application here that this garage was here by the time that you moved in and that its C of O was issued in error by our previous building inspector.

Rodman P. Neumann - That's our understanding yes

Bill Flaherty - But it is substantial there is no question about it. But under the circumstances the pre-existing construction it would be unnecessary for us to deny you that variance because it is obviously would have a substantial affect on you financially if you had to tear the garage down.

Rodman P. Neumann - That would be a problem

Bill Flaherty - Other than that the last time we had reviewed this the height dimension was missing

Rodman P. Neumann - We supplied you with the new

Bill Flaherty - I see that and it is lower than Code

Vincent Cestone - Any more questions from the board?

Amy ____ (substitute counsel) - I am sorry, you said there is no running water and there is no intention of using this as a bedroom

Rodman P. Neumann - No

Amy ____ (substitute counsel) - Or to be rented out or anything

Rodman P. Neumann - No. This is just a studio workshop

Vincent Cestone - If we decide to grant this we will put it in the resolution that you can't have water or living space

Rodman P. Neumann - That is fine

Vincent Cestone - Any more questions from the board? Any comments from the audience on this? I just want to put on the record that two neighbors have said that they are for this application. I make a motion to close the public hearing.

Bill Flaherty - I'll second

Vincent Cestone - All those in favor

All Board Members - Aye

Vincent Cestone - Roll call vote. Bill?

Bill Flaherty - I vote to approve

Paula Clair - I approve

Vincent Cestone - Lenny?

Lenny Lim - I vote to approve

Robert Dee - I vote to approve

Vincent Cestone - And so do I

Rodman P. Neumann - Thank you

Vincent Cestone - Just for your information, we have 62 days to have a resolution

Rodman P. Neumann - Okay

Vincent Cestone - But probably will well before that. And it will be brought down to the building department. You can ask the building department when you get the resolution

Rodman P. Neumann - Okay. Great

Kim Shewmaker - Are we doing this in July or September

Vincent Cestone - Well I was thinking we can have this at the next meeting

Kim Shewmaker - Just want to make sure for the agenda. Resolution July 26th

Vincent Cestone - People, we are going to have a second meeting this month because we are having August off. And we are asking the attorney to have the resolution ready for the 26th. Next item on the agenda is a public hearing for AnneMarie M. Reeve.

Glennon Watson - Okay these are the presentation materials.

Kim Shewmaker - Do you have any extra sets up there?

Robert Dee - Yes. Vinny?

Kim Shewmaker - Thank you very much

Glennon Watson - Glen Watson from Badey and Watson. I am here for your applicant AnneMarie Reeve who is the lady in the pink shirt in the second row

and I am here with her, and her attorney Marie Corless. AnneMarie Reeve has contracted to buy a parcel of land from 700 – 720 Indian Brook Road LLC. The owner, the member of that LLC also happens to be Mr. Buck who was the member of the LLC that owns the Nazareth Property. At any rate, the Reeve family bought property in Philipstown in 1884, this property, and added to it and by 1913 had accumulated this property and land on the other side of the road and little changes have happened over the years but nothing of much significance until the beginning of this year when 700 – 720 Indian Brook Road bought 259 acres from Ms. Reeve. Ms. Reeve wanted to keep 2 acres which is this area towards the southeast corner of the property that is outlined in blue. She wanted to do that in order to restore a very derelict house on the property that was a family house. And she wanted to buy that. She wanted to actually reserve it out of the sale but that was not a possibility because it would require subdivision and the business transaction was such that the purchaser could not wait. But they do have a contract that allows Ms. Reeve to get approval to buy back a two acre parcel. She has made an application to the Planning Board for that subdivision, to divide this 259 into 257 and 2. But the lot that we proposed does not meet all of the zoning requirements. And we are here to seek your variance on the two requirements that it does not meet.

Vincent Cestone - Which are

Glennon Watson - That's were I'm going next.

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

Glennon Watson - The second sheet focuses on the the two acres, the two acres that we are proposing to, that Ms. Reeve's buys back, it has frontage on Indian Brook Road, it goes back along lands of Kent to the west, to the south, to the southwest, I'm sorry, it doesn't reach the road to this west and south and then it cuts through the property to the west, to the north, to the east and then along the back of lands of Adams and then comes out to the road to close. Two things I want to point out just because I would ask these questions myself is why does this, why is this eliminated from the property and basically Mr. Buck's wish is to control all of the frontage on Indian Brook Road except for the frontage for this house. This is the house that is to be restored. It lies in the neck of the property. There are two things that we couldn't accomplish and still have two acres and or even larger and we couldn't accomplish. One, is in relatively recent years the Town enacted a law that says you have to have 6,000 square feet of buildable area. And they define that buildable area as land that is inside the setback line, not on any steep slopes, which would be slopes of 15 percent or greater, contain 6,000 square feet, contain 60 feet, you can measure 60 feet in any direction within, which I take to mean a 60 foot circle that has to fit within this piece of property. This land slopes fairly steeply to the west and it gets to wetlands, and it can't contain any wetlands either, so and while we can eventually get to a point, I don't think we can get to a point using this frontage, and we studied it pretty hard,

and get to a 6,000 square foot area. The first thing we asked for is relief from the 6,000 square foot buildable area. The second thing we ask relief for is the requirement to have a driveway to reach that 6,000 square foot area. I am going to get my notes to make sure I don't mis-state this. We made significant effort with regard to trying to find that. I am sure that's it, I am not finding it. So we are asking relief from those two requirements, which is really a combined requirement. We made extensive investigations for septic system, we don't have enough room in here although there is probably something of whatever was the septic system in this house. The setback lines around the house are such that by the time we come back, the setback line, we can't get the 60 foot circle in there to get our 6,000 square feet. By the time we get back here we get into steep land with regard, so we can't get a driveway back there. With regard to where we can put a septic, there is extensive ledge rock exposed and you need to have a minimum of 3 ½ feet of soil. So there is extensive ledge rock proposed as we get further to the west we get steeper slopes and we start, if we push the line further back we get too close to the wetlands. So we are pretty well confined and our basic argument is that the, they already have a house, it is already in place, it is already in a logical place that was probably a logical place for a 100 years or more. And so the relief sought is not excessive in terms of the absolute numbers it is quite high, but the point of the law to have a driveway to a buildable area is moot here because we have an existing dwelling with an existing driveway. And the relief sought we think is reasonable.

Vincent Cestone - How much of a variance are you asking for?

Robert Dee - 51 percent. It is 6,000 square feet, we wants 2,919...51.3 percent

Glennon Watson - That sounds right

Robert Dee - That is a big number

Lenny Lim - You have all these plans to start to rehabilitate the house

Glennon Watson - As I said to the planning board, this is a labor of love. This is not something that I frankly would undertake, but Ms. Reeve has a connection to this piece of property and it is something that she wants to do. It is going to take a lot of work

Lenny Lim - Are you going to enlarge the house and make it bigger? Or are you going to stay on the same footprint?

AnneMarie Reeve - Probably stay on the same footprint

Lenny Lim - We need more than a probably

Marie Coriess - That was the intention. May I introduce myself. I am Marie

Corless. I am representing Ms. Reeve and I just want to explain to you basically her connection with the area. She lives across the street and a

Vincent Cestone - In all honesty that is not relevant

Marie Corless - Well I

Vincent Cestone - What Mr. Lim was asking was is this house going to be larger

Marie Corless - No. She is renovating the house as it is right now. She had a great-aunt who lived there and she has sentimental feelings towards that house and towards the area that the family has inhabited since 1884 and she still lives there and she is very devoted to the area. As a matter of fact when she was pretty much forced to sell for personal reasons she deliberately sold it to Mr. Buck who has the same conservation philosophy as she does. She has not intention

Paula Clair - The house as described in the application as 500 square feet

Marie Corless - It is very small. It was a cottage. It was just a guest cottage and she intends restoring the

Paula Clair - 500 square feet

Marie Corless - Yes.

Paula Clair - That's pretty small

Marie Corless - It is small but as I said it is the sentimental act of love where she wants to enjoy it herself. She has no intention of having any traffic either foot, vehicle, really there will be no impact to the area other than an improvement. This house has been in the condition where she wants to restore it to its original cottage, historic, ancient appeal. And that's what she wants to do to this house

Vincent Cestone - And how many bedrooms does it have

Marie Corless - I believe it has two. How many bedrooms does it have

AnneMarie Reeve - Probably one

Marie Corless - One. It is very small. I mean it is was her aunt's and she was very fond of her aunt and spent some time there as a child. She's been living there since she was 10 years old. And she would like to see this restored. I mean it was a big act for her to sell off the property that she did and the reason why she held on to this small area was because she is very much committed to the same goals of not having it developed. If she had only sold a portion of the

land, then presumably some day there might be someone requesting development in the area. And she wanted to really preclude that. So although it may have been self imposed hardship, it was really to the benefit of the community.

Vincent Cestone - Are you personally going to be living in it

AnneMarie Reeve - No. We have a house

Vincent Cestone - Who is going to be living in it

AnneMarie Reeve - I may occasionally stay there or have a friend stay there

Vincent Cestone - You don't live in Philipstown

Marie Corless - Yeah. She lives across the street. Within walking distance.

AnneMarie Reeve - A quarter of a mile down the road

Marie Corless - She doesn't intend on selling it, she doesn't intend on renting it, she intends on enjoying it herself by having guests stay there occasionally

Vincent Cestone - Any more questions from the board?

Bill Flaherty - I have a question relative to the Parcel 1 there. How many acres is that?

Glennon Watson - 257

Bill Flaherty - Total acres however you excluded

Glennon Watson - Parcel 1

Bill Flaherty - No over here, near Indian Brook Road

Glennon Watson - This parcel we are talking about

Bill Flaherty - No. This little leg over here

Glennon Watson - Oh this.

Bill Flaherty - No right here

Glennon Watson - Oh this? This is part of the 257 acres. It is all one big piece.

Bill Flaherty - But that borders Indian Brook Road

Glennon Watson - That's correct

Bill Flaherty - That's in an R-80 district

Glennon Watson - Yes it is

Bill Flaherty - That could be developed

Glennon Watson - This could be developed?

Bill Flaherty - Yes

Glennon Watson - No.

Bill Flaherty - Why not

Glennon Watson - It could be part of a larger lot, but it itself could not be developed because you couldn't create a lot with a 200 foot square. On this map 200 foot square is 10 inches. This is a very narrow, actually this is a protective strip that Mr. Buck wants to keep to prevent an additional driveway from this lot on to Indian Brook Road. So it, I mean it obviously can be part of bigger property but even then you have these wetlands right in here that would prevent it from being, effectively prevented from being used. And by the time you apply the 40 foot setback and the 30 foot rear setback, you couldn't put a building in there.

Bill Flaherty - Because it looks proportionately much larger than that on the map.

Glennon Watson - No that's fine. This is the property line, this dark line. The road here, this is Town Land in between. So you couldn't

Marie Corless - I would just like to add that Ms. Reeve owns

Vincent Cestone - Wait one second. Does that answer your question?

Bill Flaherty - Yes

Lenny Lim - They were paving or grading the road today so I couldn't get all the way down the road for my site visit.

Vincent Cestone - Any questions from the audience? Sir, stand up and introduce yourself.

Bill Sadler - I am Bill Sadler. I have a question. Clarify please. The square, is that the septic fields?

Glennon Watson - That is the area we would need for the septic field. Yes

Bill Sadler - How close is that to ledge and the steep slopes ledge and the wetlands please

Glennon Watson - How close is it?

Bill Sadler - Yes

Glennon Watson - The steep slopes start to the west of it, not very far. We are right up against the edge of the steep slopes. But the septic area is not within an area of steep slopes. I do not have the results of the soil test with me to tell you the exact answer but I know that it is at least 3 ½ feet which is the minimum that you are required. And I know it perked well enough that we have sized out the area that we would need for the septic system.

Bill Sadler - I fully appreciate sensitive reasons and emotional reasons for wanting to develop something and do something. We all understand that emotion. But I do express a concern that variations from existing Codes that specify certain things and that when exceptions are made they lead to other exceptions down the road

Vincent Cestone - That is not necessarily true. But go ahead

Bill Sadler - Good. That's a concern I had.

Vincent Cestone - So your concern is, the only issue that they have is they can't put a 6,000 foot square

Bill Sadler - Yes

Glennon Watson - 6,000 square feet

Vincent Cestone - And not be on the steep slopes. That is the only issue that they are asking about. Even though the property is big enough to fit the square, it is because of the steep slopes and the Town Code says that that is not acceptable because in theory it is not buildable. According to the Code. That's what the issue is

Glennon Watson - Just to give you some prospective on this light green area. I don't have a scale with me but I would say that is about 2 ½ inches by 2 ½ inches. If this room were drawn, and I just counted the ceiling tiles while you were speaking, this room is 2 inches by 2 inches. So this is room is, this is about 50 by 50 and this room is about 40 by 40. So to give you a sense of this open area is about a little bit bigger than this room.

Vincent Cestone - This is dictated by the County

Glennon Watson - That is correct. The County has a set of rules, you apply the number of bedrooms and the perk rate and that translates to a size and the field you need to put in.

Bill Flaherty - Essentially nothing is changing on that property

Glennon Watson - Other than the installation of a septic system

Bill Flaherty - It seemed to me _____ and will probably add significantly to the aesthetic value of the property itself. I don't think it would have any impact on anyone that I can see.

AnneMarie Reeve - It would only be better for the

Vincent Cestone - Wait a second. Finish your statement

Bill Sadler - It just seemed to me that there were considerable study and I assumed that has been done

Vincent Cestone - With the septic system?

Bill Sadler - Well yes. The variation from Code

Vincent Cestone - Right

Bill Sadler - Considerable study before approval

Vincent Cestone - Since this went through the Planning Board, they did substantial studies on this. Did you attend the Planning Board meetings?

Bill Sadler - No. No I didn't

Vincent Cestone - I watched it on tv. They were extensive in their questioning.

Bill Sadler - Thank you

Vincent Cestone - You're welcome. Sir. Introduce yourself

Stephen Kent - I am Stephen Kent. I am the Steve Kent of this property here. And I have a statement that I want to make about this, some things to give you but I would like to introduce my lawyer first, Robert Hilpert.

Robert Hilpert - Good evening. My name is Bob Hilpert of Hilpert Law Offices

here in Croton, New York. I am also a resident of the Town of Philipstown. Mr. Kent got notice of this Hearing Tuesday, I think July 6th. And he contacted my office and I was on vacation. I returned today, in my office today. So I am not probably as up to speed as could be on this but I think I understand the issues that are before us. But before I make any presentation I would ask Mr. Watson if he would, I think I read on the map or I saw a map that showed that the septic area was 8,000 square feet. And I think Glen just said that that was like a 50 by 50 square which would make it 2,500 square feet and I just want to know

Glennon Watson - You are required to have an expansion area but you are not required to clear it or do anything. You have to have an expansion area that is equal to the size of the system

Robert Hilpert - You can clear it but you are not required to

Glennon Watson - You have to clear the area where you put the primary system, the functioning system, where you install that. You do not have to clear the area where the reserve area

Robert Hilpert - So the 8,000 square that I saw included the expansion area

Glennon Watson - Correct

Robert Hilpert - Roughly 2,500 and the expansion is another 5,500

Glennon Watson - Maybe my eyeball estimate is off

Robert Hilpert - I am not holding you to it, I am just trying to get an idea of the ratios

Glennon Watson - Yeah it's about, it is half expansion area and half primary area

Robert Hilpert - I went through the application that was submitted and then Mr. Watson's statement that supported the application and it lays out all the tests that are required as set forth in the Town Law. And I won't burden you with all the details but maybe for the members of the public that are here it would be good for them to know, good for them to understand that in order to grant an area variance which is what this is, this is an area variance. That the applicant must make a presentation to the board and then the board really considers five factors

Vincent Cestone - You know, we know this, so if we could just get to the point

Robert Hilpert - I told you that I wasn't, I am just telling you that there are five factors that they need to consider. In their application a lot of the information that they presented I think is misleading. And

Vincent Cestone - In what way

Robert Hilpert - Well, I would like to do that with you now.

Vincent Cestone - Okay

Robert Hilpert - One of the factors is that an undesirable change will be produced in the character of the neighborhood and the board has to consider that it won't have that kind of change. They talk about a family house here but this is really a dilapidated shack that hasn't been occupied by anybody I don't think in 50 or 60 years. It has no electric. It has no water. It has no septic. I don't know when the last people who lived there. I think the image that is being presented is that it is like a family homestead and they are looking to preserve the family homestead. When the fact is what they are really looking to do is just renovate an existing shack and turn it into living space. They've done this in an area where they had the ability to not come to this board, the applicant did, had the ability to not come to this board for any variances. They owned all 257 acres. They decided to sell that to make a profit. Presumably they made a profit. I have a copy of the Deed, it sold for 5 million dollars. They could have kept a little more property and not have had to come to this board. But they chose not to. In fact, this family homestead was conveyed out of their name. Now they have to try and buy it back. And there are conditions attached to it. But that didn't impact on the money that was involved in the sale. I think that had they taken perhaps less money or perhaps had been some other considerations, they wouldn't have had to come to this board. They wouldn't have to have the impact that they are going to have on this neighborhood. Even though Mr. Watson says they don't have to clear cut 8,000 square feet of trees, these trees here if you look at this property they are 100, 150 years old. These trees have never been cut, never been pruned other than by nature. They are, everything is adjacent to Fahnestock Park. It is very scenic. There are people come there and walk there and I think it will have a huge impact on this neighborhood and especially when the Town has worked so hard to create a new zoning law which _____ less of this. They are asking for a 51%. An extraordinary amount of area variance. And the reason they are doing that is because they created the hardship themselves. They chose to take more money and have less buildable area. They could have not had this problem here but they didn't so, they sold the property and now they are coming to look for you to correct their problems. And that's a windfall for them if you do it. And it is an eyesore for the neighborhood.

Vincent Cestone - I don't quite understand why it is an eyesore. First off it is a shack. And they are going to rebuild it and make a cottage out of it.

Robert Hilpert - Well you could also knock that down

Vincent Cestone - The area being cleared out , it is surrounded by other trees.

The only way you are going to see the cleared land is if you are going over by helicopter.

Robert Hilpert - I don't believe that that is the case. I've only seen photographs. I haven't walked the site. I've only had one day. I don't think that that is the case. The area that is going to be cleared is visible as you can see from Indian Brook Road, all up and down Indian Brook Road. It will be just like a big hole in the forest. All right. This is all natural and very pristine. You could improve the area by taking the house down. There is nothing salvageable there. There is an old stone foundation, you can't build on it. All right. It is not code. It is not a pre-existing use, it has been abandoned for 60 years. The sills, we have pictures of the sills. They are all rotted. There is nothing salvageable. You can improve the vista here by taking the house down. You don't improve it by putting it up and then putting in a septic system that is going to clear, or could clear as much as 8,000 square feet of land and maybe as little as 3,000 square feet of land. But whatever it is, it still impacts on that neighborhood. And there is all steep slopes there, whatever the runoff is it is going to saturate that septic area and my client is very concerned because his well is there, his house is there, he doesn't have hydrostatic pressure whatever goes on, I don't know that myself. But I think there is very serious concerns here. And I think that the Board really needs to look at this hard before they make any decision. I would ask therefore that the board keep this meeting up to make further inquiries, keep the public hearing open and allow us and other members of the public to come back and get some real questions answered. There is a lot of things presented in here and I am not going to belabor them all with you now, because you asked me not to, but I really think that there is a lot of issues here that need to be addressed to see what will happen if this is allowed to happen. What impact it is going to have on the neighborhood. His house, there is only 2 houses, his house and the other house. But there was a way to make this not happen. But it happened. Now this is, you have to correct the problem. I don't think you should do that. This was something done to make a profit. Someone sold some property to make money. Substantial amount of money in some people's eyes. And they could have made maybe a little bit less and they wouldn't have had this problem here today. And they wouldn't have had the impact on this neighborhood. And it will impact on the neighborhood and it impacts on the whole community. This, from what I understand, the Town of Philipstown _____ made a list if you will of properties high, high level preservation properties or high value, I don't know the exact name of it, but they ranked them from like 1 to 27 and this was number 2 in importance. This property. And if you are going to take the one that is number 2 in importance and you are going to allow a 51% area variance, what happens to number 22 on the property list. Does that get an 85%, you know? It becomes a, if you pardon the pun, a slippery slope. But that is what is going to happen. And they argue in here that we don't have to worry about it because all the other parcels here are big you are not going to ask for any small subdivisions like this. Well this was a big parcel. And look what happened to it. Somebody decided to take a little piece out of it and to try to develop that to the detriment, I think, of the

community.

Vincent Cestone - Okay. I'll give you a second.

Marie Corless - May I have

Vincent Cestone - No wait, wait a second. Anyone else in the audience wish to speak? Okay you can go

Marie Corless - Okay. Thank you. I will keep this brief because I am mindful it is getting late. And I just want to say that the septic area that is going to be cleared is going to be as minimal as possible. And she intends also to restore the shrubbery, trees and whatever she can to restore it. She has had that property forever and had no intention of exploiting it. She could have sold it to developers. She has no intention of developing. She just wants to restore what exists right there. And that's it, thank you.

Vincent Cestone - Any other residences want to speak? Sir

Jonathan Kruk - Yeah, I am Jonathan Kruk and I am a citizen of Philipstown and I often bike along that area. I know the property and I am friends with Mr. Kent here but I am concerned even beyond, even before knowing the Kents and the Reeves that this is an ancient road that's been in existence since the Colonial times and I think you have to be very careful even though gingerly about making any changes here and I do have concerns about trees being taken down for the septic fields there. I love it when old buildings are restored and the Reeve property is a gem in this community and I am glad, you know, that it will be, you know, a good part of it will be preserved. Even though it is for sentimental reasons to try and restore it, it seems like it is going to do a little more harm than good overall and I am hoping that a better solution can be worked out than clearing the land for the septic fields and I just don't understand how the house can be restored. And I would like to see whatever is done here be done in a way, again, with great care taken. So that's really my main concern here. Thank you.

Vincent Cestone - Sir?

Stephen Kent - I am Steve Kent of this parcel here. It has road frontage here. This map is very misleading. It seems to tell you that this is going to be trees and it is all going to be, you know, sheltering my property. I have pictures in here that show you the existing condition and how it is altering. It is all overgrown forest. Nothing has been done up here by way of disturbing the land or cutting trees for the better part of 100 years. There is, this part is going to get, if you walk the property and you see the trees that are there, this is all going to get cut down. This is all going to get cut down. This is likely to get cut down. And where as now I am surrounded, nestled in Fahnestock woods, Fahnestock park,

surrounded by mature woods, all my privacy, all the trees around here are going to be cut down and I am looking at the septic. The road is looking at the septic. There is no guarantee or no undertaking that she is not going to cut this or this for view, and if you actually go and look at the trees there are select overhanging trees that she will cut down in order to so-call preserve this house. But let me just, tell me what I came to say about it from my point of view. I will give you this statement and the documentation that goes with it. I have several points that I want to make. One is with regard to damage to adjoining properties and property values. In the appeal application submitted by Badey & Watson and Mrs. Reeves it is blithely stated that quote an undesirable change will not be produced in the character of the community nor will there be a detriment to nearby properties. In fact the opposite is true. It will make nearby properties more valuable. This is contrary to the fact that I am very offended that this assertion has been made for me by a paid agent of the applicant who is also an official advisor to the Zoning Board. When in fact I was never notified of the subdivision activity on my borders until Tuesday. So lets be clear. The fact that this variance and subdivision will, the fact is this variance and subdivision will decimate the value of my property and that the assertions to the contrary is hostile and mendacious. I know for a fact that my property value depends mostly on it pristine and private setting nestled in mature woods next to Fahnstock State Park which are uniquely pristine and undisturbed for most of the century. The trees that surround all my property, which consists of 0.8 acre parcel where my historic house is right here, my well is right here, septic is over here

Vincent Cestone - How many feet are we talking about

Stephen Kent - It is 100 feet from here

Vincent Cestone - And from Ms. Reeve's house

Stephen Kent - It is less. My property borders less

Vincent Cestone - No

Stephen Kent - He house is about 250 feet away. That is what the application says, I haven't measured it but it is probably accurate. So the trees that surround all my property are mature and are over 100 feet tall. The application calls for 8,000 square feet of septic fields on rock ledge land. I've got pictures that show that this is all rock. Okay. It is all rock outcropping and it is sloping down to the State protected wetlands which are over here. So trees in that area will be, the application calls for 8,000 square feet of septic fields on rock ledge land, elongated and jammed right against my property and all west boundary violating setbacks. Trees in that area will be clear cut creating an eyesore from my land which is also clearly visible from the road which has recreational use. The perk test wells have been dug within a couple of feet of my boundaries. All along here. All along here. Without notification. I am no engineer but I think blasting

and filling will likely be required to shoehorn septic fields into this area which is full of large rock outcropping. I also believe it threatens my land and my well. The proposed septic is about 100 feet from my well which is shallow, only about 80 feet. It is an historic well. I am familiar with the hydrology of this land. After a rain hydrostatic pressure builds up under the rock ledge and springs out on my property. There is literally a spring after the rain. It runs down on to my well. On my north border a non-conforming house will be built to replace a tiny old ruined out building which is not, which is visible from property now. It is not visible from my property now because it is hidden in the trees that has been allowed to grow up over the last 60 or whatever years. Grant this variance request and both my north and west boundaries and virtually all my land that is not road frontage gets denuded of trees and privacy that the property now enjoys. I have had informal appraisals of my property from friends like Bob McCaffrey who said it is worth a lot because of where it is and the pristine nature of the preserve setting nestled in a mature forest adjoining Fahnestock. On that basis I invested in restoring the farmhouse. This variance is a direct threat to the value of my property and the economics of my family. Based on what McCaffrey and other appraisers have told me, my guess is it will cut the value of my property 20% or more depending on the market. It may also possibly poison my well. There is no question of the fact that the subdivision would mean substantial degradation of my property value. I am a middle class citizen who worked hard and scraped together the resources to establish and restore this property which is the only other resident on upper Indian Brook Road other than a small hunting cabin owned by Mark Adams over here on the north side of the subdivision. To carve out the very two acres of a 259 acre parcel that damage me the most and to configure the septic and development on it for maximum damage to me, then for Mr. Watson and Ms. Reeves to assert that their plans would have nothing but positive impacts on my property and on Mark Adams property on the north side of subdivision, is offensive and demonstrably wrong and in any case not their place to say. I think that Mr. Watson asserting this on behalf of a paying client is arguably improper given his position as an official advisor to the zoning board. He ought to refrain from making such assertions and misleading the Planning Board to pass the variance request on to the ZBA in a letter stating that it does not quote present any problems from the Planning Board's land development perspective. Of course it presents problems. Grave problems. Attached to this letter you will find photographs I have taken on my property and rock ledge next to it in which the applicant proposes to build the 8,000 square foot septic. It conveys a sense of the damage to my property and to the character of the neighborhood seen from the road when the trees near the building and in the septic are clear cut. I am also attaching email correspondence with the new owner of the 259 acre parcel including the proposed subdivision area, his name is Chris Buck. In it I detail the damage in this correspondence that it will cause to me, the neighborhood, the environment and zoning law precedent. And at his request I proposed alternatives and remedies. His reply to me said quote I am sorry this chain of events has put your property and peace of mind at risk. Your home is in a wonderful corner of the world and I understand your alarm. I am afraid however

that my hands are tied as to a solution for you. The terms of my agreement to purchase the land required the subdivision of the specific lot in question. I signed the subdivision application as part of the sale agreement. You are clearly much more familiar with the setback requirements and other zoning issues than I am. It seems to me that they are all issues that you should be discussing with Ms. Reeves and or the zoning board. It is out of my purview. If I were in your position, I might take up these concerns Monday evening with the zoning board. Point two. Negative impact on the environment and the character of the area

Vincent Cestone - How much more are we going to go?

Stephen Kent - Give me 10 minutes.

Vincent Cestone - Can you pick it up a little bit

Stephen Kent - I will. No trees have been cut for a century. No fields have been disturbed. The dirt road has been maintained at the Town expense, miraculously preserved. The Audubon Society gets the highest number of bird sightings there. It is extremely diverse mix of deciduous forest, very sensitive recreation use. I have seen all kinds of bobcats and everything in those woods. That is why it is number 2 on the list of 27 high value conservation properties that Philipstown wanted to acquire. It is a missing piece of a puzzle at Fahnestock. This underscores the uniqueness of the area and the inappropriateness of what amounts to a spec house development. No matter what the applicant says about it being a treasured family home, I and others believe that this is a fig leaf to exploit the zoning regulations. More on that in a minute. People familiar with the road who hike it and bike it and actually know it, and there are some of those here, know the lay of the land and the structure and the lot in question will tell you clearly that building a house on that small lot by the road and clearing the trees around it where nothing has been disturbed for most of the century, is harmful to the character of the neighborhood. I am not an environmental scientist but I can safely assert that clearing out old forest to build 8,000 square feet of septic fields on steep rock ledge with huge outcroppings, sloping down to State protected wetlands, will definitely have a negative environmental impact. How could it not. The requested variance is not only substantial but it is egregious and more argued on misleading premises of rehabilitating a family home. 51% relief, the subdivision would substantially violate setbacks as well as the 51% relief of buildable area. It is less than 50 feet from my boundary on the north side over here. And lets be clear about the structure Ms. Reeves is calling a family home. The house she plans to rehabilitate. It is a defunct dilapidated ruin that was abandoned many decades ago and has substantially collapsed. It measures 22 by 22 on the outside which means there is less than 400 square feet of usable space on the inside. The roof has fallen in on the south side. The windows and clapboards are cupped, rotted and broken. The sill plates the structure rests on are rotted out. The old stone foundation which is non-viable. It has no basement or second story. It never had active heat other than a wood

stove. I don't think it had electricity. The applicants admitted previously although Mr. Watson said something contrary tonight, it had no septic. He talked about there was septic _____ was viable. But nobody lived in it. This was before there were septic requirements. Okay. When the house was bought in 1952, I investigated this by the former owners of my property. They could have bought this for \$1,000 but they refused because in 1952 it had been abandoned and it was too dilapidated for them to _____. So it goes back to at least the 1940's. Since then nothing has been done. No one has lived in it. Never been maintained in the time that Ms. Reeves owned it. Thankfully no trees were cut around it and it is now hidden in the trees so that I won't see it. These are all old trees here and now I am in good shape regarding the derelict outbuilding on my border. The structure cannot be rehabilitated and repaired. It will have to be demolished and rebuilt. If it were rebuilt on the existing 400 square foot footprint the applicant claims she intends to do that, it will yield that much living space. Where are they going to put mechanicals, a bathroom, kitchen, living space? It makes no sense. I doubt it is even possible given Code requirements. If the variance is allowed, there will be no question of rehabilitation. The great likelihood is the existing structure will be demolished, a larger house will be put in its place. I asked the Town Building Inspector whether if the variance is granted will Ms. Reeves be required to stay within the 400 square footprint. He said no. And he further agreed with me that a much larger house would necessarily have to be built on the site. Meanwhile the true family home is down the road, Ms. Reeves and her mother lived in it for many decades. It is a historic farmhouse, dilapidated but restorable on the large piece of property. So what we are really talking about I fear here is not restoring a treasured old family place, it is a spec house. Speculated development on this pristine road and grossly violating zoning requirements to do it. I see nothing in the process that would prevent building a much larger house and profiting thereby. Ms. Reeves got 5 million dollars for the sale of the large north parcel of the family land and will buy two acres surrounding my property cheaply. The point is simply to develop the land and maximize its value many multiples of that at the expense of surrounding property values, environment and integrity of zoning regulations. Last point. About precedent and notification issues. I have three sets of objections all brief, on those grounds. First, the requested variance area is enormous asking to approve less than half the minimum allowable building area. The applicant says this is appropriate because without it she will be denied the right to use her existing land and old family home. But a) it is no longer her land. Chris Buck owns it. B) there is no usable existing building or family home. There is a tiny ruined outbuilding that is no more than a pretext for new construction in an otherwise grossly nonconforming area. Whereas on her 259 acre parcel there were many many spots she could have chosen that would have no visual or environmental impacts on the road or the neighboring properties. If the variance is granted, other applicants including those who want to carve out their own grossly nonconforming residences on high value conservation land, or any type of land, will cite it as precedent. And similarly speciously argue there is no impact on the environment or the neighbors or the neighborhood. It will also

open the door to needless and damaging development on this pristine and miraculously preserved road through Fahnestock which is very much a live community concern. Second, if this is approved it will be on the heels of a process which has flown under the radar in which the neighbors who are damaged by the subdivision have their interest misrepresented by the applicant and only notified of the activity less than a week before it is slated to be approved. Leaving us inadequate time. My neighbor to the north is barely aware of all this when I spoke to him yesterday. Attached is the letters of support from local residents and attorneys about the scant notification and extremity of the nonconformance of this proposal. This is one of many such letters I expect to get in the days ahead. Citizens I have spoken to are objecting strongly to the way the subdivision has been presented almost as a fait accompli. It not only violates current zoning regulations, it is also a worse violation of new zoning that is coming as the Town works to tighten zoning requirements. That is the point I think. To ram this subdivision through before the rules change. The applicant claims that the variance is within the spirit of the law even if it violates its letters. This is contrary to fact. It would violate both existing zoning law and imminent zoning changes. I find it disturbing that there should be a kind of land rush to get damaging new development in under the wire because residents know change is coming. Third and last. This variance asks you to pit the interests of large land owners against that of smaller ones. Ms. Reeves still owns many hundreds of acres on the road the Town would like to preserve, and she has 5 million dollars. Mr. Buck who I believe is very ambivalent about the damage this variance causes to me and he says he is sorry, he didn't know and so forth, but he can't do anything about it because his hands are tied by the contract. He also has millions and many hundreds of acres. I own a total of 1.1 acres. And I have a tiny fraction of their net worth. Yet I am entitled to equal protection under zoning laws and large owners. There is no justifiable reason why zoning laws should be bent so far to accommodate a large land owner for a needless damaging development on pristine nonconforming land. The larger point for the community is that if this is done to me on this very sensitive, much used and much loved pristine area using the pretext of a derelict tiny shack as a family home, then it can be done to any small land owner who stands in the way of development plans from a large land owner anywhere in the Town. This would be an intolerable precedent for us and cannot be allowed to stand. I therefore strongly urge you to deny this variance request on its merits. At a minimum I ask you to forego approval of this application and keep the matter open while we investigate it further and get more documentation. While I believe there is ample to reason to reject it now. Attached I have correspondence and photographs that are the first installment of documentation that I intend to provide. Several letters of support from residents who could not be here tonight. And if I had more time, there is more coming in all the time. I got two more tonight. So I will give you each copies of this and it includes photographs.

Vincent Cestone - Would you agree to a condition that it has to be on the same footprint when it is rebuilt

AnneMarie Reeve – yes

Vincent Cestone - You would agree to that condition

AnneMarie Reeve – Yes

Lenny Lim - We asked that question earlier didn't we?

Stephen Kent - She probably, she intended to, but it was never

Glennon Watson - May I speak?

Vincent Cestone - Does the board have any more questions?

Glennon Watson - Mr. Cestone, before you, may I speak for a moment?

(there is a conversation with Mr. Flaherty and Mr. Kent...cannot hear all of it...)

Stephen Kent - ... there is only a few trees there but they are big ones but they would have to be cut because they overhang

Bill Flaherty - Well as a provision we could put, if we did grant the variance, we could insist that trees be planted around to protect your view. I am going to take a ride down there and look at it for myself. You say that would have a detrimental affect on your property. Now you said that McCaffrey said it was worth a lot of money. Well McCaffrey is not an appraiser. He is a real estate agent

Stephen Kent - I know. But I have had appraisers during refinance and so forth

Bill Flaherty - Do you have copies of those

Stephen Kent - I could probably get them. But it depends on the market and so forth. But they are not going to tell you the reason why it is worth a lot of money, this is a private overgrown forest and this is all Fahnestock. And that is just the reality. Get rid of this and all of a sudden you know I have a suburban house on a suburban lot in small acreage in what before was living in this pristine park land. So my property value is based on that. And to allow this development and wrap my property like a jigsaw puzzle piece fitting into mine, could have done anywhere on the 259 acres is egregious. It is an attack on my family economics.

Vincent Cestone - Glen you wanted to say something.

Glennon Watson - I wanted to put clearly on the record that I do not represent

the Town of Philipstown nor do I represent the zoning board, nor do I advise the zoning board. Your accusations with regard to my conflict of interest are simply incorrect.

Stephen Kent - I read a newspaper article that you were an official advisor to the zoning board

Glennon Watson - You are incorrect sir. And you presented that as testimony before this board.

Stephen Kent - I can supply the newspaper

Glennon Watson - There are several, I am not going to go into details because

(Inserting new tape (2)...may have lost some dialogue)

Glennon Watson - it was implied several times that we are giving an area variance letting the idea flow that the lot is too small. The lot is not too small. An area variance is simply one of several different variances that applies to the 6,000 square feet. That is the area variance we are seeking. Does the, people don't clear cut land today. And we would certainly consider restrictions with regard to clear cutting. The fact is that from Mr., when you go out there you can note that from Mr. Kent's house to this house there is a substantial area of woods. But this area is open and has been maintained open and that is Mr. Kent's. Now how he wanted some protection over the years that he has owned the property, he could have let it go to seed and he could have let it go. It wouldn't be 100 year growth but it would have provided some protection. The setbacks on the septic area are legal. The septic area setbacks are not the same as the zoning setbacks. The holes that he pointed to and said were dug on his property or near his property are all plotted on here and they are well within the other piece of property and we don't need his permission to do that. One of the things that we have thought about and we would agree on a condition where we took the primary area and designed it, and this doesn't guarantee and I am not saying this guarantees that it never gets cleared, but with a small house it is really pretty rare that we have to replace the system. But we could design the primary area so that it was longitudinal which would double, more than double the distance from any clear cutting that is required for the system. We would be happy to do that. I have spoken to my partner today about that possibility. And finally, if you read the topo, when you have a chance to look at the map, you read the topo you will see that this septic area flows to the southeast. And Mr. Kent's property flows to the southwest. I don't know exactly where the drainage divide is but this whole septic area, this west half of it flows away from his property. Things you may want to look at when you study the map.

Vincent Cestone - Anyone else wish to speak? And this is not a debate

Steve Kent - I know. Just point and fact. When I went to the Building Inspector to look at the maps, I saw a version of the map that was called optional. Where it went straight back like this. That would impact me much less but I don't understand why it is not on the paper.

Glennon Watson - A simply answer to that is to be tested back there, that area back there is full of rock and ledge and didn't test.

Steve Kent - I've got photos of it, it is all rock ledge.

Robert Dee - And this new area that you propose doesn't perk test

Glennon Watson - Yes. We will supply you with copies of the test

Robert Dee - Okay

Vincent Cestone - Any more questions from the board? Any more questions from the audience? With that I am going to keep this, I want to make a site visit, I am going to keep this open until our next meeting on the 26th where we will put this to rest. And that will give you a chance to review and with that, this is continued on to the 26th. Review of minutes of June 14th. Any additions or corrections? I make a motion to

Bill Flaherty - I have change, Kim on page 2

Kim Shewmaker - I'm getting there

Bill Flaherty - Last line.

Kim Shewmaker - Page 2 last line...to say the very list. I guess that's supposed to say least.

Vincent Cestone - With that change, I make a motion to accept the minutes. Second?

Bill Flaherty - Second

Vincent Cestone - All those in favor

All Board Members -- aye

Vincent Cestone - Resolution for Jack Russell Bowden. You're up

Amy _____ (substitute counsel) - Okay. I'm on. The Philipstown Zoning Board of Appeals conducted a public hearing on June 14, 2010 to hear the appeal of the applicant, Jack Russell Bowden, from the denial of his request to maintain an

existing carport located on his property located at 58 Winston Lane, within the Town of Philipstown. The main structure of the subject carport is setback 15' 5" from the street line, and the roof of the carport is setback 13' from the street line. In the R-40 Zoning District, where the subject property is located, a 40' street line setback is required in accordance with the provisions of Section 175-32, Schedule B, Item 6(b) of the Zoning Code. The applicant has accordingly appealed to this Board for an area variance to permit him to maintain his existing carport in its current location, despite an insufficient street line setback. At a public meeting of the Board on June 14, 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 Jack Russell Bowden from the denial of his request to maintain, in its present location, an existing carport located at 58 Winston Lane, Garrison, New York, despite an insufficient street line setback of 15' 5" (for the main structure of the carport) and despite an insufficient street line setback of 13" (for the roof of the carport). 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 26-B. Conditions of the Variance. 1. The main structure of the existing carport located at 58 Winston Lane, Garrison, New York shall remain set back at a distance of not less than 15' 5" from the street line setback, and the roof of the existing carport shall remain set back at a distance of not less than 13' from the street line setback. 2. The applicant shall paint the roof of the existing carport brown in color so as to minimize adverse visual impacts which may result from the placement of the carport within the required street line setback. 3. No enlargement, reconfiguration or extension of the existing carport, for which the above-referenced variance has been granted, is authorized without prior Zoning Board approval. And I am sorry for any mispronunciations on names.

Vincent Cestone - Any changes? If not, I make motion to accept the resolution as submitted.

Robert Dee - Second.

Vincent Cestone - Any old business. 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: 9/13/10

Respectfully submitted,



Kim Shewmaker
Secretary