

**ZONING BOARD OF APPEALS**

**Via Zoom**

**July 13th, 2020**

**7:30 P.M.**

**Regular Monthly Meeting**

**Pledge of Allegiance**

**Approval of Minutes:**

**\*May**

**Old Business:**

**Public Hearing:**

**New Business:**

**Dennis Clark & Denise J. Grillo, 28 Lane Gate Road, Cold Spring** **TM# 38-3-57**

(Applicant is seeking a permit for replacement deck and 85 sq ft addition to second floor kitchen and bath. Applicant proposes a 27'-9" side yard setback where a 3'-0" setback is required. The applicant also proposes a 27'-3" rear yard setback where a 50'-0" setback is required)

**Ryan Maxwell, 48 Old Albany Post Rd, Garrison** **TM#83.13-1-17**

- 1) (The applicant proposes a second story addition within the side yard setback proposing a 28"-0" setback where 30" is required. Also proposing a 59" front yard setback, where 60" is required.)
- 2) (The applicant proposes a Carport/Pavilion within the rear yard setback proposing a 24"-6" setback where 50" is required.)

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

**\*\*\*BEGINNING OCTOBER 1, 2019 ALL SCHEDULED ZONING BOARD OF APPEALS MEETINGS WILL BE HELD AT THE CLAUDIO MARZOLLO COMMUNITY CENTER, 107 GLENCLYFFE DRIVE, GARRISON, NY 10524\*\*\***

**ZONING BOARD OF APPEALS**

**May 11<sup>th</sup> 2020**

**Minutes**

**The Zoning Board of Appeals for the Town of Philipstown held a monthly meeting on Monday, May 11<sup>th</sup> 2020, Via Zoom**

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

**Absent:**

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

**Chairman Robert Dee opened the meeting at 7:30 P. M.**

**Chairman Robert Dee:** Good evening everybody this is our first zoom meeting so, you will have to be patient. I will ask everybody to keep your video off and their button muted until a later time if they want to talk. You can ask Kelly and she will relay it to me.

**MINUTES**

**Chairman Robert Dee:** At this point and time I want to do the approval of the minutes for March, Vinny do you have any changes?

**Vinny Cestone:** No, I don't have any changes

**Chairman Robert Dee:** Paula do you have any changes?

**Paula Clair:** Yes, I just have some cosmetic changes. I will get them to you separately okay Kelly?

**Chairman Robert Dee:** Adam do you have any changes or corrections in the minutes?

Adam Rodd: No

**Chairman Robert Dee:** No, okay. Can I make a motion that the minutes be excepted?

**Vincent Cestone:** I'll make that motion

**Chairman Robert Dee:** Okay, second?

**Granite Frisenda:** Second

**Chairman Robert Dee:** All in favor?

**Granite frisenda:** Aye

**Vincent Cestone:** Aye

**Paula Clair:** Aye

**Lenny Lim:** Aye

**Chairman Robert Dee:** Okay, Minutes are approved

**Chairman Robert Dee:** Okay, next order of business is a completion for Louis Ginnin, 21 Ferris Drive. Is there anyone here representing Mr. Ginnin? Kelly do you know if he is going to be here tonight?

**Kelly MacIntyre:** He said he most likely would not be going to be here tonight but, he wanted me to keep him on the agenda but he didn't believe he would be.

**Chairman Robert Dee:** Okay, we won't put him on the agenda next month until he gets in touch with us. You can notify him of that because I'm not sure exactly what he's doing. Okay, next order of business is the continued public hearing for Jose Romeu, 529 Route 9D. It is the one as we all know about the building permit application, were they timely or not. Three different things were new, information was mailed to me in the last since the last meeting. First one is a declaration

**Granite Frisenda:** I'm going to recuse myself

**Chairman Robert Dee:** Okay, Recuse yourself. First one is a declaration Mr Romeu showing events that took place and it is notarized and signed under penalty of perjury. Mr. Romeu are you there?

**Mr. Romeu:** Yes, yes we are

**Chairman Robert Dee:** Okay, Mr. Romeu and Mr. Babcock are both there. Okay, before I let you go through this, I just want to hear some dates in here that I think you might be unsure of. On page one, go down to number four. You have on July 13<sup>th</sup> I noticed what appeared to be questionable work on the property located at 529 Route

9D. July 13<sup>th</sup> 2019 was a Saturday and then after that you said July 13<sup>th</sup> you went to the Town Hall. Now Town Hall was not open on Saturday.

**Jose Romeu:** I went there on the 12<sup>th</sup> I believe. It was a Friday

**Chairman Robert Dee:** Okay, all right now I'm going to go point by point

**Jose Romeu:** Yes

**Chairman Robert Dee:** Okay, so you went on the 12<sup>th</sup>, so we'll correct that to the July 12<sup>th</sup> correct?

**Jose Romeu:** That's right, it was a Friday

**Chairman Robert Dee:** Mr. Romeu?

**Jose Romeu:** Yes

**Chairman Robert Dee:** Okay, July 12<sup>th</sup> because then you went back on the 15<sup>th</sup> which is a Monday. That's when you met Mr. Wunner

**Jose Romeu:** That's is correct, yes

**Chairman Robert Dee:** Okay good, now go down to number five on your list here. You have immediately on July 13<sup>th</sup> 2029, well we know that did not happen 2029.

**Jose Romeu:** No

**Chairman Robert Dee:** okay, so see this is a declaration that you swore to, so I want to make sure it is correct. So, that would be July 13<sup>th</sup> of 20, July 12<sup>th</sup> of 2019 correct?

**Jose Romeu:** Yes, that's correct

**Chairman Robert Dee:** Okay good, correct good. All right now go down on page four okay? page four item number 16. You say on August 6<sup>th</sup> 2019 Mr. Babcock and I accompanied by Luke Hilpert went to the Building Department and met with Mr. Wunner. I don't think so, I think July 6<sup>th</sup> in your records, in your previous testimony that was cancelled and you met on August 12<sup>th</sup> am I correct?

**Jose Romeu:** No, that's not correct. We met on August 12<sup>th</sup> with Luke Hilpert in his office

**Chairman Robert Dee:** Okay, so let's correct that August 6<sup>th</sup>, we are going to change that to August 12<sup>th</sup> okay

**Jose Romeu:** No, no no we did not meet with Mr. Wunner on August 12<sup>th</sup>. I have to go and check on my calendar to be honest with you okay, and I will get back to you.

**Chairman Robert Dee:** No, all your previous testimony is you met on August 12<sup>th</sup>. You had a meeting scheduled from your previous testimony for August 6<sup>th</sup> and Mr. Wunner canceled it and then you met on August 12<sup>th</sup>. If your attorney is there maybe he could, Mr. Hilpert are you there?

**Luke Hilpert:** Yes, I'm here.

**Chairman Robert Dee:** Okay, could you correct, what I'm trying to say is that Mr. Romeu has that you met on August 6<sup>th</sup>, I believe it was August 12<sup>th</sup>?

**Luke Hilpert:** I met on August 12<sup>th</sup> with Mr. Wunner and that was the date when we received the plans.

**Chairman Robert Dee:** Okay, August 6<sup>th</sup> was the one that was changed? That was cancelled correct?

**Jose Romeu:** May I address the chair?

**Chairman Robert Dee:** Sure

**Jose Romeu:** We met, we actually, I'm quite sure that we met with Mr. Wunner on August 6<sup>th</sup> with Luke Hilpert

**Chairman Robert Dee:** I don't think so, your previous testimony. Let's ask your attorney. Mr. Hilpert can you tell us?

**Luke Hilpert:** The meeting on August 12<sup>th</sup> was when we received the plans. The August 6<sup>th</sup> meeting that Mr. Romeu is speaking of I believe was the meeting when Mr. Wunner would not meet him

**Jose Romeu:** But, met with you

**Luke Hilpert:** But, met with me

**Chairman Robert Dee:** Met with you, okay

**Luke Hilpert:** yes

**Chairman Robert Dee:** (in auditable) Did you have a meeting August 12<sup>th</sup>?

**Luke Hilpert:** That's correct, we had a preliminary meeting on the 6<sup>th</sup> and then on the 12<sup>th</sup> he provided us with copies of the plans and we reviewed the file, or I reviewed the file.

**Chairman Robert Dee:** Okay, so you had two meetings August 6<sup>th</sup> and August 12<sup>th</sup>?

**Luke Hilpert:** Yes, that's correct, and that's when we provided previously the receipt from when we received the plans on the 12<sup>th</sup>.

**Chairman Robert Dee:** Alright, so my questions is, August 12<sup>th</sup> you were at the Building Department and you met with Mr. Wunner and Mr. Romeu and Mr. Babcock were there also?

**Luke Hilpert:** They were not there, no

**Chairman Robert Dee:** Is that correct Mr. Hilpert?

**Luke Hilpert:** They were not there on the 12<sup>th</sup>

**Chairman Robert Dee:** They were not there on the 12<sup>th</sup> okay

**Luke Hilpert:** because on the 16<sup>th</sup> (In auditable)

**Chairman Robert Dee:** So, they were not there on the 12<sup>th</sup>?

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** Mr. Romeu is that correct? Is that correct?

**Jose Romeu:** That is correct, we were no there on the 12<sup>th</sup>, we were there on the 6<sup>th</sup> and the Building Inspector refused to meet with us and met with Mr. Hilpert behind closed doors.

**Chairman Robert Dee:** On the 12<sup>th</sup> okay

**Jose Romeu:** No, on the 6<sup>th</sup>

**Chairman Robert Dee:** Mr. Hilpert

**Luke Hilpert:** yes

**Chairman Robert Dee:** You filled out the application August 12<sup>th</sup>?

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** I have the application for the appeal I mean August 12<sup>th</sup> and it was signed on August 12<sup>th</sup> by Dr. Romeu and Mr. Babcock and notarized by you correct?

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** When and where did you do this?

**Luke Hilpert:** When and where? That was on the 12<sup>th</sup> in Croton, in my office in Croton.

**Chairman Robert Dee:** It was done in your office in Croton?

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** Okay, I'm just trying to get a time scheme in line here where we are at

**Luke Hilpert:** Sure

**Chairman Robert Dee:** One more thing here Mr. Romeu. Okay, go to number 17 on your list. He said after the closed-door meeting, Mr. Wunner also informed me, Mr. Babcock and Mr. Hilpert that we could not file a petition with this board. Now, Mr. Hilpert is that correct?

**Luke Hilpert:** I don't recall on the 12<sup>th</sup> I'm sorry after that closed-door meeting if he specifically said that or not. So, that I don't recall. (In auditable)

**Chairman Robert Dee:** (In auditable) You don't believe what?

**Luke Hilpert:** No, I mean whether he, I know up to that point he said he advised Mr. Romeu and Mr. Babcock that they could not file an appeal, that is what they told me. Whether he

**Chairman Robert Dee:** I understand that

**Luke Hilpert:** Whether or not he said it that date to me or use I don't recall directly but, I know that Mr. Romeu does remember that so

**Chairman Robert Dee:** Well, alright that's, you understand we're I am with this? With this sentence, because he is saying here, it's an important sentence

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** He is saying here Mr. Romeu under perjury (In auditable) he puts in here also they had notarized by you, after the closed-door meeting Mr. Wunner also informed me, Mr. Babcock and Mr. Hilpert that we could not file a petition with this board. Now if Mr. Wunner told you that, that's important. Is that true Mr. Hilpert?

**Luke Hilpert:** I do not recall whether he said that or not. I know that at that meeting Mr. Wunner and I had a discussion and he said he said look I understand if you have to go to court on this or do something, whatever you have to do, you have to do but, he didn't that was not in front of Dr. Romeu and Mr. Babcock. That was in the closed-door portion of the meeting. When we came out and then he made statements to them I was, I was frankly surprised we were not going back in. I don't recall if he specifically said on that date that

**Chairman Robert Dee:** Okay

**Luke Hilpert:** But, that's not my statement, I mean that's Dr. Romeu statement

**Chairman Robert Dee:** I know, but your name is in it so, I'm just trying to clarify the thing. Mr. Romeu do you understand my question?

**Jose Romeu:** I do understand your question.

**Chairman Robert Dee:** Okay

**Jose Romeu:** Mr. Hilpert and Mr. Wunner came from the closed-door meeting it was my expectation that we would meet all together and he refused, that is the Building Inspector refused. I asked him a number of questions. One which please give me a petition paperwork for the petition. That is correct

**Chairman Robert Dee:** My point is, (In auditable) In your statement here you said that Mr. Hilpert heard Mr. Wunner told Mr. Hilpert that he couldn't fill out the petition. He couldn't fill out the appeal

**Jose Romeu:** Well the tree of us, for of us were there and that was exactly what the Building Inspector said. It's not the first time he denied me that

**Chairman Robert Dee:** No, I understand that. We will go into that. What I'm trying to get this because this is an important issue.

**Jose Romeu:** Yes

**Chairman Robert Dee:** Mr. Hilpert does not recall, Mr. Hilpert does not recall him saying that. Okay, so I'm going for my purposes I'm going to strike that line out of the deposition.

**Jose Romeu:** (In auditable)

**Chairman Robert Dee:** The part that Mr. Hilpert says, where you say Mr. Hilpert, they told Mr. Hilpert which he doesn't remember that.

**Luke Hilpert:** Excuse me Mr. Dee, that

**Chairman Robert Dee:** Sure

**Luke Hilpert:** I'm not saying he didn't say it

**Chairman Robert Dee:** Either he did or he didn't

**Luke Hilpert:** And what I'm saying to you, I came out expecting to meet with my clients and bring them in to a meeting that we were going to have and he said Mr. Wunner refused to have that additional meeting. Mr. Romeu was asking him questions, was talking to him and I was trying to figure out what was going on here. If I don't remember exactly whether he said it or not, that's what I'm telling you, but I'm

**Chairman Robert Dee:** Okay

**Luke Hilpert:** But I'm not saying he didn't say it

**Chairman Robert Dee:** And you're not saying he did say it?

**Luke Hilpert:** I am not. From the tenor of the conversation it would not surprise me if he did say it but, I'm not saying

**Chairman Robert Dee:** Okay

**Luke Hilpert:** That's not my sworn statement

**Chairman Robert Dee:** That's all, no problem. I'm just trying to get

**Luke Hilpert:** I understand

**Chairman Robert Dee:** Mr. Romeu?

**Paula Clair:** I have a question

**Chairman Robert Dee:** Mr. Romeu, would you like to address

**Paula Clair:** Could I ask a question?

**Chairman Robert Dee:** Sure, go ahead

**Paula Clair:** If Mr. Wunner said that you could not file an appeal, did he tell you why? Did he give you any reason why you can't?

**Jose Romeu:** He was quite non-responsive to any of my questions. May I backtrack a little bit? July prior to this he had actually don't the same thing down the advice of the Town Council. He would not provide me the plane not the paperwork to file the petition. In fact, the reason we were there was to get the petition and the plans. To get the file this board, that was the reason why we were there and we thought we needed a lawyer to get the paperwork.



**Paula Clair:** Right, and also Mr. Hilpert did Mr. Wunner give you any reason why he would not permit your clients into the meeting?

**Luke Hilpert:** I don't know he gave us specific meaning. He said I met with you and then he said something to Mr. Romeu about him being a troublemaker.

**Paula Clair:** Isn't that unusual to exclude the appealing party from a meeting with his lawyer for the appealing party?

**Luke Hilpert:** I did, the reason for the meeting, we had set the meeting for all of us to be there so, I did find it

**Paula Clair:** Right

**Luke Hilpert:** It odd and like I said it may be why I don't recall the specific words that were used when we were outside in the front of the building. I was taken back by what had happened.

**Paula Clair:** Right

**Kelly MacIntyre:** Excuse me Mr. Dee?

**Chairman Robert Dee:** Go ahead Kelly

**Kelly MacIntyre:** The attorney Sabastian would like to say something

**Chairman Robert Dee:** Who is he?

**Kelly MacIntyre:** Sabastian is the other attorney

**Chairman Robert Dee:** Sabastian who are you? I'm sorry I don't know you can you identify yourself please?

**Xavier Romeu Mota:** My Name is Xavier Romeu Mota and I represent Mr. Romeu, Mr Babcock and the Romeu Trust.

**Chairman Robert Dee:** So, there is two attorney's representing Mr. Romeu and Mr. Babcock. Okay, go ahead Mr. Romeu

**Xavier Romeu Mota:** I just want to make a quick note, it seems that there might be an inclination to strike testimony which is a little bit odd of the fact that Mr. Hilpert may not recollect what Mr. Romeu said is not relevant to strike testimony from a sworn declaration. A sworn declaration is what it is, unless you have testimony to the contrary that declaration is testimony and should not be stricken. That's all I have to say.

**Chairman Robert Dee:** Okay, do you want me to leave the incorrect dates too?

**Xavier Romeu Mota:** No, I'm referring to the portion that you identified as being stricken from the record. The other portion

**Chairman Robert Dee:** Right

**Xavier Romeu Mota:** The other portions to which Mr. Romeu has provided clarification can stand as clarified by Mr. Romeu and as recorded in this hearing.

**Chairman Robert Dee:** Okay, as long as we understand that Mr. Hilpert doesn't remember saying that. Is that clear?

**Xavier Romeu Mota:** Yeah, what Mr. Hilpert remembers or doesn't remember is already on the record. My point is

**Chairman Robert Dee:** Okay

**Xavier Romeu Mota:** That there is no contested evidence or other than that Mr. Romeu has said transpired at the meeting. If there is somebody else, we need to step forward and say that was not true then let that person step forward but otherwise this testimony should not be stricken.

**Chairman Robert Dee:** That one line. I'm not trying to strike his testimony. My question was on that line that Mr. Hilpert doesn't remember. Mr. Romeu would you like to address your declaration further? Go ahead. Mr. Romeu? I'm sorry Dr. Romeu, would you like to speak more about your declaration?

**Jose Romeu:** No

**Chairman Robert Dee:** Okay, I think everybody read it. It's clear to you Mr. Romeu declaration?

**Paula Clair:** Yes, I did

**Chairman Robert Dee:** Okay, Mr. Cestone

**Vincent Cestone:** Yes, I read it. I would like to ask Mr. Hilpert if possible.

**Chairman Robert Dee:** Sure, go ahead

**Vincent Cestone:** Mr. Hilpert, when were you hire by Dr. Romeu?

**Luke Hilpert:** On the 12<sup>th</sup>

**Vincent Cestone:** Okay

**Luke Hilpert:** That was the date that I went with him previously but the official retainer agreement when we kinda decided we were going to move forward and have to do something was the 12<sup>th</sup>.

**Vincent Cestone:** Were you aware of the 60-day clock on applications at that time?

**Luke Hilpert:** Yes

**Vincent Cestone:** And one last question, how come you didn't file an application immediately?

**Luke Hilpert:** That, I believe that we had filed it. It was not filed so; I'm not stating that it was filed at any time before the 10<sup>th</sup> which is when it was stamped as received but that was the. We went through it and once I reviewed the plans, I met with them, we went through the plans together, I put together some additional information and it was our intension that it would be there before the 10<sup>th</sup> of October. Obviously, that was not the

case and actually there was some confusion as that led us to believe that it had been filed actually.

**Vincent Cestone:** And what would that be?

**Luke Hilpert:** It wasn't but

**Vincent Cestone:** And what would that be?

**Luke Hilpert:** There was a prior, email with Dr. Romeu and the board, I believe maybe Mr. Dee that had stated that we were on the agenda for the, I don't know the September meeting or October Meeting and then he corrected and said no, a couple of days later no, I was mistaken you're not on the agenda and that's when we realized that it, that it hadn't been there.

**Vincent Cestone:** Oh, Okay

**Paula Clair:** I have a question also for Mr. Hilpert. Who did you believe filed the application? Someone in your law firm?

**Luke Hilpert:** Yes, I believed it was mailed out. I believe it was supposed to be mailed out from my office.

**Paula Clair:** Who is responsible for mailing it out?

**Luke Hilpert:** One of my paralegals. His name is Harvaiegir, once I have something, I say okay this is ready to go let's send it out

**Vincent Cestone:** Was it sent certified or registered?

**Luke Hilpert:** No, ultimately it was walked into the, I walked it in and was met with I don't know if Kelly was there or Linda was there and it was stamped oh no, Tara Percacciolo was still there at that time.

**Vincent Cestone:** Right

**Luke Hilpert:** And that is when it was

**Paula Clair:** Why was it not mailed out when you initially thought it was going to be mailed out?

**Luke Hilpert:** I don't have an explanation for that. I wish it was but it wasn't

**Paula Clair:** And what day did you walk it into the Code Enforcement Officers office?

**Luke Hilpert:** That would have been October 10<sup>th</sup>

**Paula Clair:** Okay

**Chairman Robert Dee:** Okay, let me address e-mails now that I thought he was on the agenda. Mr. Romeu and I had been emailing back and forth. He had made me aware of his problem that he was frustrated and not getting enough information. He asked me if he was on the agenda, I looked at the agenda, I made a mistake I thought it was there but it wasn't. What happened, Mr. Romeu sent me an email on August 28<sup>th</sup>. Email

states, a permit for regulation interpretation but the Town Code was filed on August 12<sup>th</sup> 2019 and assumed that has been received by the committee. Might you be able to advise when the committee may meet to consider. Now, that's where I made a mistake when I looked, I thought it was (In auditable) I e-mailed him back I told him he wasn't on and he said thanks for the update. That was on September the 30<sup>th</sup>. He said thanks for the update, please alert me when it will be on your schedule. Then I e-mailed him back October 1<sup>st</sup> because I checked and saw that they had no information. So, my email to Mr. Romeu reads I spoke with the secretary today and she has no application or information. You said someone gave you permission to get on the agenda could you tell me who that is and that was at 8:07 p.m. on October 1<sup>st</sup>. I see an answer back from Mr. Romeu same day at 8:29 p.m. and he said Mr. Dee the petition was submitted by Luke Hilpert on my behalf shortly after August 12<sup>th</sup>. No one has responded to it. As I have informed you on the phone three previous attempts to do so at Building Department in person were not granted. So, evidently maybe Mr. Romeu is under the understanding it had been filed but the truth I checked the record both times and it had not been filed. I just want to make that point of reference.

**Luke Hilpert:** That's correct

**Chairman Robert Dee:** Would you like to address your letter that you sent us new information, you address the Town Council, the Town Attorneys letter to the board from the last meeting.

**Luke Hilpert:** Sorry, I would be happy too.

**Chairman Robert Dee:** Would you like to speak to that?

**Luke Hilpert:** Yeah, what's in there is what I would like to get across

**Chairman Robert Dee:** Would you like to speak to that letter Mr. Hilpert?

**Luke Hilpert:** Yeah, I would like to be heard. I don't necessarily want to repeat what's in the letter, I mean you said that you've read it and everybody has a copy of it so, that is what's before the board. So, I really just

**Chairman Robert Dee:** No, no it is important so go ahead

**Luke Hilpert:** Okay, so really, I would just like to kinda sum everything up. To me it seems clear that when we original read the code states that a Building Permit or Permits should not have been issued and that what we are really here looking at now is the (In auditable) Should have filed for a special permit. That is what we are asking you to require (In auditable) file for a special permit as required by the code. As for the timing, I've provided you my interpretation of the law. Mr. Smith's provided you his, Mr. Rodd provided you his. I'm sure other people have weighed in with their opinion as well. I think what's consistent and what's important is this law is and requires a petitioner to act diligently and to come before the board in a timely manner and they set that time. The facts before you from Mr. Romeu, Mr. Babcock is that they attempted to determine what happened, what was happening at their neighbor's property on a number of occasions they're prevented that's not that hasn't been disputed. You know you've asked if anybody else wanted to come in, you asked Mr. Wunner if he wanted to come

in to speak to that. No one else has come in to speak to that point and so, I believe that under the facts and circumstances here they obtained the information and they did apply within the time frame once that information was provided to you. I think the record is clear that if you look at the facts before you the ones that are unique to this matter this is and you apply those facts and the law you have an outcome that you and you alone are to make. You're are the review board here, you are to look at the facts, the record before you and make that determination and that's yours that's yours to make. I appreciate your time on all this and happy to answers any more questions that you have.

**Chairman Robert Dee:** in your last paragraph you advise what the correct course of action would be. That the board determine the appeal was timely and then declare the Building Permit invalid and require respondent to apply to the ZBA for special permit. If that happened if that took place, I just want you to be aware that the board would have the authority to though on a special permit to approve the construction. Do we agree on that?

**Luke Hilpert:** We absolutely agree on that, I think in one of the first meetings Mr. Babcock in his statement said that's there just asking the board to do what is required. Asking the neighbors to do what is required. So, we absolutely understand that outcome.

**Chairman Robert Dee:** Okay, alright. Mr. Romeu, Mr. Babcock do you understand that outcome?

**Jose Romeu:** We understand that

**Sidney Babcock:** Yes, we do

**Jose Romeu:** Yes, we do

**Chairman Robert Dee:** Is that what you would be satisfied with? Is that your intension here?

**Jose Romeu:** Would you repeat that, what the intension is

**Chairman Robert Dee:** Is your intension to follow Mr. Hilpert's suggestion here and go through and say it was timely and go have them file for a special permit? Is that your intensions also? Is that what you like to see happen?

**Jose Romeu:** That has been our intension from the very beginning

**Chairman Robert Dee:** Okay, alright. Go Ahead

**Luke Hilpert:** Just if I could be heard on that one.

**Chairman Robert Dee:** Sure

**Luke Hilpert:** Based on what's before this board that's all we can ask of this board is that, that happens then during a special permit application then it would be appropriate for them to be heard as to whether there ever was a finished basement as to whether

it's an addition whether it's 25 all of the other criteria would come in at that point. But what we are asking this board today, all we can ask this board today is that.

**Chairman Robert Dee:** I understand. Is anybody here Mrs. Rasic? Or anybody from 529 Route 9D? anybody here?

**Kelly MacIntyre:** Yes, Frank would like to talk

**Frank Smith:** Yes please

**Chairman Robert Dee:** Go ahead Frank

**Frank Smith:** It is nice to see everyone virtually, I hope everyone is staying well, staying healthy as best as they can.

**Chairman Robert Dee:** Okay

**Frank Smith:** As the board knows we've have been before you with this matter a number of times beginning from last November. Between last meeting and now the only new submission was on behalf of Mr. Hilpert. There are a few items that I would like to address. I will do them as briefly and succinctly as I can and then if you have any questions for myself and or Mr. and Mrs. Rasic we're here for that.

**Chairman Robert Dee:** Okay

**Frank Smith:** So, I would like to say that I reviewed the material's that were sent to Mr. Hilpert, I do disagree that it was improper for the Town Board to send the letter to the Zoning Board. I do think that the Town Board and the Town Attorney has an interest that is permissible to give an advisory opinion to the Zoning Board. The case that Mr. Hilpert (Inaudible) Feinberg Smith Associates Inc. vs the Town of Vestal it speaks to improper influence from the Town Board to Zoning Board very minimally. The circumstances are very different then what we have here. I don't think that case applies and particularly it's a Supreme Court of Broom County case so, it doesn't have any binding authority on us here in Putnam. Also, Mr. Hilpert distinguishes that facts that are associated with the cases that I provided you. I would like to make clear that I was in no way shape or form saying that that facts of our matter were the same as the facts of the other cases that I proved but, that those were the best and most recent cases that helped illustrate the 60 day rule ,particularly when it's a neighbor challenging a Building Permit that they didn't have knowledge of. Lastly there was a case that was cited called Panza vs Damiano that case was not factually similar whatsoever. It was a New York State Court of Appeals case which would be binding. My reading of that case, it appears that the decision by the Court of Appeals specifically related to a city of Utica New York Code Provision. I do not think that case stands for the proposition that someone who is looking to revoke a Building Permit can go to the Building Department and get some Kind of pre-denial before they go to the Board of Appeals. If you look at some of the cases that follow the Panza case there is a case in the second department that is binding on us here in Putnam County, it is called the matter of Robert Schultz vs Town of Red Hook Zoning Board of Appeals. The citation is 293 AD 2D 621, and in that case it does discuss the 60 day requirements and that case stands for the proposition that the applicant had at least three weeks of knowledge to be able to challenge the permit

and that the application was submitted three weeks later than which what's required to be filed by. That's very similar to the fact that we have here given that Mr. Hilpert was retained and still had I believe through September 10<sup>th</sup> to file the appeal. There was a month of time where there was an attorney retained in this matter and then the appeal took another month to be filed with the Building Department so, again I'm going to rely on my past submission when it comes to the law. I don't think that the facts here really change what the Appellate Division would think and lastly it does appear that between the declaration and Mr. Hilpert's last submission that there's some allegation of impropriety going on that the Rasics were somehow involved in either misleading the Building Department or going along with something when they knew that it was illegal. My clients did the right thing, they went to the Building Department they filed for a permit it was approved they continued work under a legally filed permit. To date, right now that permit is legally valid. So, there is no reason why they should have stopped work, there's means of recourse for people who want to challenge things like this. So, Tim and Lisa they're here this evening with us, their stand-up members of the community, both of their kids are in the Garrison School. They're members of the local Boards they volunteer, Garrison is their home. They're committed to the Town; they're committed to making it a better place and I think it's inappropriate to allege that they were somehow in on providing false information and things of that sort. So, I would like to stand up for their character just a bit. They merely filed a Building Permit it was legally granted and they performed work pursuant to that so, again I content that this appeal is untimely and if the Board finds it timely then we can reach the merits of the interpretation itself but, for the reasons that I have laid out in our past meetings and again here this evening I think that the appeal should be dismissed due to timeliness thank you.

**Chairman Robert Dee:** Okay, Would Mr. & Mrs. Rasic like to speak? I don't know, would they like to say anything?

**Tim Rasic:** No, I would not like to say anything

**Chairman Robert Dee:** Kelly would anyone else like to speak?

**Jose Romeu:** I do briefly, then Sabastian

**Chairman Robert Dee:** Mr. Romeu Okay go ahead

**Jose Romeu:** We have never made any statements against our new neighbors Tim and Lisa Rasic, or any implications about them or their character. In fact, a letter was widely circulated a few months ago accusing by them accusing us of intimidation and bullying. It was widely disseminated through Garrison. We have never, we don't have any personal gripe with Tim and Lisa. In fact, as you know we welcomed them when they first arrived and offered to help.

**Chairman Robert Dee:** Okay

**Paula Clair:** I have one other question

**Jose Romeu:** Yes

**Paula Clair:** I have a question for Mr. Hilpert, when you have a chance.

**Luke Hilpert:** I'm here, go ahead

**Paula Clair:** Okay, my question is, the form that you took out on August 12<sup>th</sup> did you fill out any of that in the office at that time? Other than the date?

**Luke Hilpert:** When you say the office, do you mean the Building Department or at my office?

**Paula Clair:** Yes, the Building Department

**Luke Hilpert:** I don't believe I filled it out at the Building Department no

**Paula Clair:** Okay

**Luke Hilpert:** I think I went back to my office and filed it out and then met with Mr. Babcock and Mr. Romeu.

**Chairman Robert Dee:** Okay, Kelly do you have anyone else who would like to speak?

**Kelly MacIntyre:** Yes, Rachel Evans would like to speak

**Chairman Robert Dee:** Okay Miss Evans go ahead

**Rachel Evans:** Good Evening, this is I have been upset by this case so I'm just going to just read what I've written. I feel that Mr. Romue has been able to paint the Rasic's and Greg Wunner in a negative light in the meetings I attended. Painting himself as a victim even though both Tim and Lisa Rasic and Greg Wunner are highly regarded here in Philipstown. I believe he has done this by making accusations of withholding information and building to high, I believe his accusations are untrue baseless and self-serving. He's saying that he couldn't appeal because he didn't have the information he needed, this is not entirely true and here's why. His lawyer notarized the appeal and on August 12<sup>th</sup> and didn't submit it. At the Town meeting where this was discussed his lawyer made no such claim and even oops, I lost my, just a second sorry

**Chairman Robert Dee:** It's okay, go ahead take your time. You okay?

**Rachel Evans:** Yes, his argument seems to be disingenuous because the lawyer never stated that his ability to file an appeal was made difficult in any way. On the contrary he said that when he met with the Building Inspector this is from the February meeting, on August 12<sup>th</sup> and talked about the fact that they would be issuing an appeal. The Building Inspectors reply was essentially and this I quote from the meeting "I understand you have clients that are anxious in this and you have to do what you're going to do" did not say that he was going to withhold their ability to, the lawyer did not say that day that he had any reason to believe that they were going to withhold the ability to file. On the other hand, the Rasic's lawyer showed the opportunity the claimant's had between August 12<sup>th</sup> and September 22<sup>nd</sup> to file. It seems that the claimant's lawyer admitted it's not having filed it. Indeed, to my ears his voice broke when he answered the question, the truth is he failed to file it within the New York legal window and again I feel he was grasping at straws. First, further they said that the former house was a cottage. The truth is, it was a home that was lived in by a family of six. I live in a true cottage across 9D. Further he shows, across the road literally, further he showed the rear of the Rasic's house which he is showing right now behind his back which makes it look like this



house is three stories. The truth is that because of the slope of the property that basement is partly underground. The front of the house is clearly two stories which they didn't show and this seems to me to be self-serving. Finally, Mr. Romeu and his lawyer have displayed flagrant disregard for procedure submitting materials right before the former meetings which were discussed at the meeting. I wonder if this is true tonight, that's called ambush. Not giving the Rasic's meaningful opportunity to answer claims. Submissions are supposed to be turned in to the Town Clerk two weeks before the meeting so, the information can be given to all the parties concerned with ample time to review. If the ZBA is claiming that they are looking out for the community do you not want a community that follows the law and procedure? It raises questions whether or not there is a bias or a conflict of interest thank you.

**Chairman Robert Dee:** Thank you, Kelly anybody else that would like to speak?

**Kelly MacIntyre:** Um no, I don't see anybody else, um nobody else right now.

**Chairman Robert Dee:** Yes, go ahead

**Xaviar Romeu Moto:** Yes, I do

**Kelly MacIntyre:** Oh, Sabastain okay

**Chairman Robert Dee:** Go ahead

**Xaviar Romeu Moto:** I do, I think we should bring back some of this hearing to common sense and the specific facts that are before the board. I don't think there's anybody contested substantively what Mr. Romeu has said and more particularly what's before his declaration. There have been some questions that have raised by a Chairman who clarified the declaration and Dr. Romeu who is actually clarified the declaration which as of this point stands as it is. Those are facts that are uncontested before the board, they have not been challenged there has been every opportunity to challenge them and that has not occurred. What we do know from the evidence that's before the board at the hearings through the declarations and through this particular hearing is that Mr. Romeu and Mr. Babcock were not given documents that were necessary to challenge the permit that was issued to 529 Route 9D and so he could resent his argument that the permit was issued inconsistent with the Zoning rules under regulations, and before the board at this time there is a record that show that Mr. Wunner denied these records repeatedly and knowingly until August 12<sup>th</sup>. There is absolutely no other evidence before this board. If there is any issue with what Mr. Romeu has said and somebody who should come forward and provide some evidence, not just some conclusively statements. But very important that the board realize that its decision needs to be made on facts that are uncontested not on accusations that are made online or they're made at hearing. I think it is uncontested that the denial of Mr. Wunner continued until August 12<sup>th</sup>. I have not seen or heard anything to the contrary and I think its uncontested that the Romeu Trust filed the appeal within 60 days after that. I don't see any way that can be avoided, and from the point of view of a broader point of view, a recent ability point of view I don't think it's reasonable for the residents of the Town to be actively denied access and those are the facts that are before this board and they were denied access by the Building Department and therefore by

Philipstown, acting for Philipstown as the agent for Philipstown. Now, Mr. Wunner denied this document and then to turn around and say, well we denied those documents to Mr. Romeu and now we're going to essentially benefit from our denial in that we are going to claim that he didn't file within the 60 days when in fact it was a continued denial and obstruction which resulted in the documents being filed when they were filed. So, I think it is important to underscore that I have not seen any evidence whatsoever of Mr. Romeu trying to make any negative statements to anybody other than actively trying to enforce his rights seek recourse before this board. It's just it from a common sense perspective I don't think that this board should countenance the behavior that we've seen in terms of preventing access to documents. I don't think anybody in this community wants that to be the case going forward I don't think it should be countenanced by the board and I think the board should really consider this from not just a legal perspective I think legally the facts are clear and they are uncontested but also from a reasonable, what we want the residents at Philipstown to face every time something comes up regarding the application of a permit. I do believe that the board is going to reach out the correct conclusion but, like I said from the beginning it's important in any hearing whether it be this hearing or any type of legal hearing or quasi-judicial or quasi-administrative hearing that we have clear what the facts are and I think that the board should only consider the facts not allegations that are unsupported in order to make the right decision which is to find the permit should not have been issued and then follow whatever procedure is necessary including a special permit and determine whether it should be issued or not thank you Mr. Chairman.

**Chairman Robert Dee:** Okay, thank you. Kelly is there anybody else that would like to speak?

**Kelly MacIntyre:** Yeah Matt Francisco would like to speak

**Chairman Robert Dee:** Okay, Mr. Francisco go ahead

**Matt Francisco:** Hi

**Chairman Robert Dee:** Hi

**Vincent Cestone:** I just wanted to say that I was shocked and appalled at the way Dr. Romeu and Mr. Hilpert were treated by the Building Department. I think it was a totally inappropriate and uncalled for. You know, we are there to serve the people of Philipstown and I believe they deserve the respect of a citizen and should not be treated that way. I think in many cases the right thing to do is give them direction even if they can't supply things. At least be proper with the people and direct them in the right way and I'm not sure what was going on that day with Greg Wunner but if this is something that he has done previously I would recommend the board have a discussion with him how to treat people properly but, I don't know enough about it to make that recommendation but I think what I've heard was very upsetting and I just wanted to say that.

**Chairman Robert Dee:** Thank you. Kelly, I think Mr. Francisco wants to speak? Mr. Francisco go ahead

**Matt Francisco:** Yes, can you hear me?

**Chairman Robert Dee:** Go ahead, yes in can hear you now. Go ahead

**Matt Francisco:** Great, I just want to urge the board

**Chairman Robert Dee:** Just identify yourself please

**Matt Francisco:** Mr. Mathew Francisco, Cold Spring

**Chairman Robert Dee:** Okay, you used to be on the Board?

**Matt Francisco:** I chaired the Planning Board. I used to be a Village Trustee.

**Chairman Robert Dee:** Okay, go ahead

**Matt Francisco:** We had a similar issue in Cold Spring with review of a large development at that time Steve Gaba was also our attorney as well and a similar thing happened with the review where the you know the legislative and executive branch reached out to the historic review board and asked them to ah, really regardless of when he I can't we can't speak to anybody's intentions only they know that, but obviously you want to avoid the appearance of impropriety and this kind of 11<sup>th</sup> hour communication at the behest of the Town Board to the ZBA to kind of abort the process is concerning. Even if everybody has the best of intentions and certainly, they share the risks but obviously you guys and I really am encouraged by the comments that I'm hearing tonight from the Board. Really smart comments really trying to looking to get the truth because what concerns me about this is to abort this in the 11<sup>th</sup> hour really kind of stifles any communication and really kind of getting better. There is a lot of pretty serious unopened questions not just the least of which you are you know the accessed records but as the chair pointed out, the change to the property card you know to the finished basement, whether or not a finished basement can even be swapped to zero out the increase in livable square footage. There are all these questions that are kind of left open If this is aborted and I think that I'm encouraged because I think you're on the right track but I just encourage you that one of the solutions that we came up with when I was a trustee was for the Zoning Board to get not the Zoning Board at that time was to get the (Inaudible) to get an independent counsel obviously you've got you know two partners in the same law firm at the Town as well as advising you so that makes it difficult for everybody really. But, I encourage you just to kind of stay the course you know, if you can see your way, you know to throw this out on a technicality of a 60 day when you really you know, Jose and Sydney had no I take them at their word and I will tell you I have had difficulty getting access to the records in the Building Department as well. The Town does the Code Enforcement on behalf of the Village they are essentially are files but, I have difficulty getting into files that are files. I don't really, I'm not terribly surprised to hear that they had these actions. You guys had good witnesses the kind of person that was there when they requested them so, I think that's helpful to you but, I mean I just I am very encouraged I hope that you stay the course and that you hear this because the obviously the only thing it leaves the impression that you know that then this board is then more concerned about the concerns of the legislative body or the Executive Body or the Town Board as opposed to the applicants that are before you. I'm not hearing that tonight and that's really encouraging and I think you guys are doing a great job with a very difficult situation thanks.

**Chairman Robert Dee:** Okay, thank you. Kelly do you have anybody else that would like to speak?

**Kelly MacIntyre:** Yes, Rachel Evans would like to speak again but, Mr. & Mrs. Rasic would like to speak also.

**Chairman Robert Dee:** Lets have Mr. & Mrs. Rasic please. Okay go ahead

**Tim Rasic:** Yes, I just like to state, which is or that you know we're people to. We went followed the law, we filed for a Building Permit and obtained a legal Building Permit. We filed with the Building Department, We filed with the Health Department and we started construction and we were working away and then there was appeal and unfortunately the appeal was made late and the law is you cannot submit a late appeal so, you are breaking the law by hearing this appeal. Breaking the law for the last several months and we have been paying our attorney to basically be here and we're just trying to do what's right and I would really encourage you and ask you to dismiss this on an untimely basis.

**Lisa Rasic:** Also, I would thank you, sorry to jump in but, Sabastian I'm sorry I don't know his last name so I can't maybe refer to him appropriately

**Xaviar Romeu Moto:** Romeu

**Chairman Robert Dee:** Romeu

**Xaviar Romeu Moto:** Call Me Xaviar

**Lisa Rasic:** Xaviar so, you said that we need to get to the facts but, just as we heard very pertinent facts just on this call tonight and they are, the facts is that the appeal was not filled on time. Their attorney admitted to that and furthermore Dr Romeu on the same call tonight, please recall, he said that he thought the appeal had been submitted so, what why is there still a question? Why? You know I have not spoken this whole time because I was afraid, I would get too emotional and its true because this is emotional. As my husband said we are people, we are citizens of this community, we matter our voices matter. What we are doing we have followed the law; we found a house we liked where is was we saw a future there. We drew up plans we thought we could put a second story on we knew it was non-conforming but we looked at the code we ascertained that we thought we could do that but, we went even before we purchased the house we went to Kevin I don't recall his last name but, the former Building Inspector to make sure to double check because we know we've all read that code we all understand it could be but, we're putting a major investment we're making a major investment do you think we're gonna mess around with that, no so we go to the Building Inspector before we bought the house and we asked for his opinion. This is not Greg Wunner this is Kevin whatever his last name is

**Tim Rasic:** Donahue

**Lisa Rasic:** Donahue, I'm sorry he said there's no problem here. I pointed out I did this I went to him I pointed out just as a reminder this is a non-conforming property here's the code we think we can, can we? he said yes unequivocally, unequivocally so we purchased the house drew up the plans submitted them Greg Werner agreed with his

predecessor now we've been here for months saying the same thing our story has not changed our timeline the dates that we use have not changed.

**Chairman Robert Dee:** Okay, I thank you

**Tim Rasic:** Thank you

**Chairman Robert Dee:** I agree, and understand what you are saying, believe me we understand this is not comfortable for the Board members either, believe me. Mr. Rasic I just have to take exception to one thing you said, that the board has been doing this illegally for month. The board is not doing anything illegally being advised by our attorney we have not been doing anything illegal. So, Kelly do we have anybody else that wanted to speak?

**Kelly MacIntyre:** Rachel Evans wanted to speak again

**Chairman Robert Dee:** Okay, Rachel Evans, All right Miss Evans

**Rachel Evans:** Thank you,

**Chairman Robert Dee:** Miss Evans

**Rachel Evans:** Yes

**Chairman Robert Dee:** Go ahead

**Rachel Evans:** Okay, yes just really quickly I just wanted to point out that Greg Wunner did speak for himself in February and why and what was his position was related to the meetings.

**Chairman Robert Deer:** Okay

**Rachel Evans:** Thank you

**Chairman Robert Dee:** Thank you. Kelly is there anybody else?

**Kelly MacIntyre:** No, Sabastian would like to speak again.

**Chairman Robert Dee:** Okay, Mr. Romeu, Sabastian I'm sorry

**Xaviar Romeu Moto:** Just very very quickly,

**Chairman Robert Dee:** Okay go ahead

**Xaviar Romeu Moto:** We're deeply appreciative of the boards time we're deeply appreciative of the opportunity we've been given. I do want to day that in no way shape or form do we believe that Mr. and Mrs. Rasic are any less members of our community than anybody else in the community. I think we have a disagreement that this group this agreement is whether it appears at this point that the board is considering whether the appeal was timely and that this disagreement can only be resolved by taking a look at the evidence before the board and the uncontested evidence before the board which is Mr. Romeu was granted the documents necessary to file, how to review the documents to see whether in fact you know the construction that was appropriate under the Zoning Laws and that occurred on August 12<sup>th</sup>. The board can make its decision on the basis of

these facts and on the basis of the facts regardless of what transpired with Mr. Hilpert and anybody else involved. Mr. Romeu filed within 60 days and that we believe that to be uncontested, we believe that to be determinative of the decision by the board, we suggest that respectfully and there seems to be a sort of an elephant in the room. We do feel for Mr. & Mrs. Rasic but what's happened here is that there is a party that's not present today that stood in the way of Mr. Romeu reasonably getting access to documentation and that is also uncontested so, I submit very respectfully to this board that it should take into consideration that there is somebody who was acting for the Building Department and for the Town of Philipstown who stood in the way of Mr. Romeu having access to documents he needed to file and as soon as he got the documents he filed and filed within 60 days. So, if the issue here is whether the filing is timely, I respectfully suggest that the facts are uncontested that he did file this in August 12<sup>th</sup> and that the person who bears responsibility for that is Mr. Wunner and it hasn't been contested that he denied these documents to Mr. Romeu so there is a reason, it's not the Rasics, the Rasics are actually victims here as is Mr. Romeu and we believe that this board is going to reach their right conclusion which is at this point and time you know the permit should that the appeal was filed on time and if there needs to be additional proceedings we will have additional proceedings but this is not Mr. Romeu's doing this is Mr. Wunners doing who is acting as an agent for Philipstown thank you.

**Chairman Robert Dee:** Thank you. Kelly is that it?

**Kelly MacIntyre:** It looks like Frank Smith

**Chairman Robert Dee:** Mr. Smith it looks like you have your hand up? No?

**Frank Smith:** Yes

**Chairman Robert Dee:** No, okay you have your hand up Mr. Smith? Go ahead Mr. Smith

**Frank Smith:** Thank you Mr. Chairman, the last point that I'd like to reiterate is that hey I can't stand here and in good conscience and have accusations that this is an 11th hour job coming before the board. This board was submitted the relevant case law prior to our first hearing in November what the board chooses to do with that is up to the board's discretion. The same case law that was cited by Mr. Gaba and his February 26th letter had been the before the board since the previous November. I have not heard a single aspect of law that is contrary to what I and the Rasic's have shown this board. We can talk about the facts all we'd like but whether those facts will change long-standing case law precedent is a completely different story. If someone were to provide me with relevant law to show that this application was filed timely that it was filed within the 60-day guideline I would be more than happy to read it review it and give you my analysis but contrary there is no other law. 60 days that's it, so we can talk about the town attorney coming in at the eleventh hour we can talk about a new attorney coming in for the applicant at the eleventh hour it still doesn't change anything that has been submitted to this board and until there's a submission that's contrary then I'm going to stand with my research with what I've submitted and I respectfully request at this board dismissed the appeal due to untimeliness and this evening since we've been here since

November of 2019 and now we're now in May of 2020 I respectfully request that the public hearing be closed and this matter be said for a vote thank you.

**Paula Clair:** I would like to say something. first of all, just I'd like to say to this Mr. and Mrs. Rasic that nobody here wants to deny you the ability to have a certificate of occupancy on your house. I think unfortunately that you the information that you got regarding the permit was fallacious I'm however and also I think it should be noted that the second item on our agenda is a request for a special permit for exactly the same thing that you're asking putting a second floor a hundred percent of additional space non-conforming pre-existing house. I mean the procedure is to ask for a special permit I mean if you were to ask for a special permit I doubt, I'm sure that the board would love let's say would be very likely to grant it. In regard to the timeliness yeah it wasn't filed between by the 60 days after the applicant first had knowledge of the situation but that wasn't the fault of a client of the of the appellant. He had the impression that it was filed so, you know it's very it's very difficult to address this I mean certainly we don't want to deny you access to your house, so I guess you should know that. Well we don't feel I don't feel any way that it was that the permit was issued correctly. I would be happy if that could be corrected and then you could get a special permit and then and I think that would maybe resolve the situation. Anyway, that's my theory.

**Chairman Robert Dee:** Kelly I think that's about it?

**Kelly MacIntyre:** There was a David Gelber who had raised his hand up before, yes

**Chairman Robert Dee:** Okay, Mr. Gelber then that will be it. Mr. Gelber go ahead

**David Gelber:** So, my family and I live on 9D. We hope to be neighbors of the Rasic in the near future. To me this I mean I've listened tonight and it strikes me as being a kind of an open-and-shut issue I mean there was a very clear rule about timeliness it was not fulfilled in this case. To ignore that is a you know it seems to me to open the possibility of creating a kind of chaotic situation down the line I don't know why you'd want to do that. This is fairly straightforward and I would urge you to dismiss this this appeal.

**Chairman Robert Dee:** Okay, thank you. Okay Kelly that's it?

**Kelly MacIntyre:** Someone had written, let's see Rachell Evans wanted me to read something. It just said it is not true that Romeu's lawyer filed right away it has been shown over and over Mr. Shapiro keeps saying that but Lisa Rasic pointed out that Romero's attorneys thought that the application was filed. This was his own testimony and that's it.

**Chairman Robert Dee:** At this time, I'm going to ask for a motion to close the public hearing. Can I get a motion?

**Lenny Lim:** I'll make the motion

**Adam Rodd:** Lenny made the motion

**Chairman Robert Dee:** Lenny made the motion, and Mr. Cestone second it.

**Vincent Cestone:** I second it, right

**Chairman Robert Dee:** All in favor?

**Chairman Robert Dee:** Aye

**Paula Clair:** Aye

**Vinny Cestone:** Aye

**Lenny Lim:** Aye

**Chairman Robert Dee:** All right, so the public hearing is closed. Now I need a motion to vote on zoning code section 175 59 F1 which is the untimeliness of the application and that is under the Town of Philipstown zoning code section. Okay, motion to make a roll call vote

**Adam Rodd:** Just to be clear here is the motion, just the wording is your motion that the instant application should be dismissed on untimeliness? Is that the motion?

**Chairman Robert Dee:** Well, the motion is the people vote

**Adam Rodd:** Right, but motion is that the application, again you'll vote on it but, it has to be phrased as the motion would be that the instant application is untimely because it doesn't comply with the town code correct?

**Chairman Robert Dee:** Correct, can I get that motion?

**Vincent Cestone:** I'll make that motion

**Chairman Robert Dee:** Okay Mr. Cestone made that motion, Second?

**Lenny Lim:** I'll second

**Adam Rodd:** Lenny second it

**Chairman Robert Dee:** Lenny Second it, all in favor?

**Chairman Robert Dee:** Aye

**Paula Clair:** Aye

**Vincent Cestone:** Aye

**Lenny Lim:** Aye

**Chairman Robert Dee:** Okay, now we are going to take a roll call. Mr Cestone your vote please?

**Vincent Cestone:** If you'll indulge me for a second.

**Chairman Robert Dee:** Sure

**Vincent Cestone:** I just want to say I've gone through this application and I believe the application was defective. It's quite obvious to me that if you go through the record that room that was in the basement was not legal. There was no CO there was no building permit I believe it was a homeowner making space for themselves and not even thinking about it. With that said, the issue of timeliness is to protect both the Rasic's and Dr.



Romeu equally. It's a 60-day clock and its quite obvious to me the Dr. Romeu did not meet that condition therefore I vote I support of the denial of timeliness.

**Chairman Robert Dee:** Okay, so your vote is that the application was untimely

**Vincent Cestone:** Untimely

**Chairman Robert Dee:** Untimely

**Vincent Cestone:** Right

**Chairman Robert Dee:** Okay, can I have Mr. Lim's vote please Adam?

**Adam Rodd:** Lenny how do you vote on timeliness?

**Lenny Lim:** I thought it was late

**Adam Rodd:** Lenny said he votes that the application was late

**Chairman Robert Dee:** Late, untimely okay that's two untimely. Paula?

**Paula Clair:** Okay, well as Vinny has said I think the original permit was issued in error and I think that a special permit should have been requested. However, it is obvious that even though Mr. Romeu and Mr. Babcock believed that the appeal was submitted in a timely manner because that was their impression from, I guess there attorney apparently it was not. So, I think that there were extenuating circumstances as well from the Building Department that they were not accorded the necessary paper or application or documents regarding the construction to file an appeal. However, on August 12<sup>th</sup> the attorney did have that information and he could have filed it within the 60 days so, unfortunately, I have to find its untimely.

**Chairman Robert Dee:** Okay, thank you. Three roll calls, three decisions. My decision is based on facts. I had it based on facts. I had Mr. Romeu sign a declaration which was dated May 1<sup>st</sup> 2020 and notarized by his attorney Luke Hilpert which states here in. Mr. Romeu first noticed renovations and or demolition of construction if this structure located at 529 Route 9D Garrison New York on July 12<sup>th</sup> 2019. Mr. Romeu retained attorney Luke Hilpert August 12<sup>th</sup> 2019. The ZBA appeal form was completed and signed by Mr. Romeu and Mr. Babcock and notarized by attorney Hilpert on August 12<sup>th</sup> 2019. Per Mr. Romeu's emails to me dated August 28<sup>th</sup> 2019n the ZBA application was filed on August 12<sup>th</sup> 2029. Philipstown record showed that it was not filed that day. Per Mr. Romeu email dated October 1<sup>st</sup> 2019 the ZBA application was submitted on behalf of his attorney Luke Hilpert shortly after August 12<sup>th</sup> 2029. Philipstown records show it was stamped and therefore filed on October 10<sup>th</sup> 2019. Under section 175 59 F1 of the Town of Philipstown zoning code the 60-day time limit to file with the ZBA appeal was 60 days from Mr. Romeu first sited the renovation by his own declaration. Mr. Romeu first noticed renovations on July 12<sup>th</sup> 2029 therefore the 60 days expired on September 10<sup>th</sup> 2029. This reason I vote this appeal was untimely. So, the vote was at this point unanimous, for that it was untimely. A second issue as far as the permit and the building permit under advice from our attorney this can not be discussed and we're not. It's not within our jurisdiction to hear this case. So, at this time I'm going to ask if all business is

finished? Old business, new business? Anybody have any new business or old business? No?

**Kelly MacIntyre:** Bob

**Chairman Robert Dee:** Yes

**Kelly MacIntyre:** Two people have written something about this, I didn't know if you wanted me to read it, or if you wanted me to leave it as is?

**Chairman Robert Dee:** Well it is over so I don't know what value its going to be. Okay I guess you can read it if you want. Read it

**Kelly MacIntyre:** It's from James R, it says in support of the Rasic's the appeal was not filed on a time in making an exception opens a can of worms for all future residents going through the same process. Any client must be accountable for the process otherwise you can always blame someone else. Courtney Schatz writes, we are Garrison residents here in support of the Rasic's. They have followed ever procedure to the letter of the law. Please adjudicate this situation for the benefit of them in the community. Courtney and Kent Schatz.

**Chairman Robert Dee:** Okay, well the decision has been that the application was untimely and we can't hear it so, at this time I'm going to ask for a motion to adjourn the meeting?

**Vincent Cestone:** I'll make that motion

**Lenny Lim:** Second

**Chairman Robert Dee:** All in favor?

**Paula Clair:** Aye

**Lenny Lim:** Aye

**Granite Frisenda:** Aye

**Vincent Cestone:** Aye

**Chairman Robert Dee:** Aye

**(THE MEETING ADJOURNED AT 8:51 PM BY (UNANIMOUS DECISION))**

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

**DATED APPROVED:** \_\_\_\_\_

Respectfully submitted  
Kelly MacIntyre  
Secretary

June 8, 2020

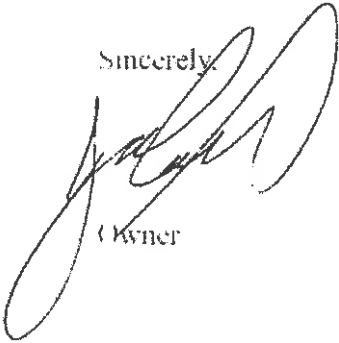
Town of Philipstown  
Building Department/ Zoning Board  
2 Cedar Street  
Cold Springs, NY 10516

Re: Maxwell Residence  
House Addition/ Carport Addition  
48 Old Albany Post Road  
Garrison, NY

To Whom It May Concern,

I authorize Michael Piccirillo Architecture PLLC to represent us in all Building Department and Zoning Board of Appeals matters regarding the proposed house addition and carport addition

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Piccirillo', written over the word 'Sincerely,'.

Owner



# Town of Philipstown

Code Enforcement Office  
238 Main Street, PO Box 155  
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

Ryan Maxwell  
48 Old Albany Post Rd.  
Garrison N.Y. 10524

6-28-20

Ref: Application for building permit  
Second story addition & Carport / Pavilion  
Tax # 83.13-1-17 (RR Zone)

**Included:**

1. Application for building permit
2. Construction plans
3. Site plans with dimensions

The application proposes a second story addition within the side yard setback proposing a 28'-0" setback where 30' is required. Also proposing a 59' front yard setback, where 60' is required.

The application proposes a Carport / Pavilion within the rear yard set back proposing a 24'-6" setback where 50" is required.

Since the proposal does not comply with the Town of Philipstown dimensional table found in chapter 175 zoning code the application at this time is **DENIED**.

If you are aggrieved by this decision, you may submit an application to the Zoning Board of Appeals pursuant to the provisions of Article IV of the town code within 60 days from the date of this letter. An application is enclosed.

Any questions please contact this office.

Greg Wunner



Code Enforcement Officer

APPEAL # \_\_\_\_\_ Tax Map # \_\_\_\_\_

Final hearing date \_\_\_\_\_ Zoning Board decision APPROVED / DENIED

Date application submitted 6/25/20

Application fee \$ 100 Escrow \$ \_\_\_\_\_ Received by \_\_\_\_\_

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), Michael Piccirillo, Michael Piccirillo Architecture

residing at 345 Kear Street Suite 203, Yorktown Heights, ny

Telephone: home \_\_\_\_\_ business 914-368-9838

HEREBY appeal the decision of (name and title) Greg Wunner , Code Enforcement Officer

whereby he/she

GRANTED \_\_\_ DENIED  a BUILDING PERMIT  a CERTIFICATE OF OCCUPANCY \_\_\_

For Ryan Maxwell

To construct a 2nd story addition and carport/pavillion

of \_\_\_\_\_

For property at tax map # 83.13-1-17 in zoning district RR

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

**48 Old Albany Post Rd., Garrison NY**

**.25 miles north of Upland Dr.**

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (Include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number. Do not quote text of code) **2nd story addition-Article VI, Section 175-23-B(1)**

**Carport/ Pavilion- Article VII, Section 175-30-F(1), Article III, Section 175-11-B**

4. PREVIOUS APPEAL. (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

**No**

TYPE OF APPEAL:

an INTERPRETATION of the Zoning Code or Maps

a VARIANCE from the Zoning Code

a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

2nd story addition- 28'-0" side yard setback propose where 30' is required, and 59' front yard proposed where 60' is required. New carport/ pavilion 24'-6" rear yard setback proposed where 50' is required.  
Proposed impervious coverage 15.68% where 10% maximum is allowed.

(2) The grounds on which this variance should be granted are:

Would not be detrimental to the environment or character of the neighborhood

(c) a SPECIAL USE PERMIT is requested:

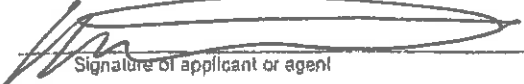
(1) The reason the permit is requested:

(2) An exact statement of use for which the permit is requested:

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit.

STATE OF NEW YORK, COUNTY OF ~~PUTNAM~~ WESTCHESTER

being duly sworn, says. I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief

  
\_\_\_\_\_  
Signature of applicant or agent

Sworn before me this 30 day of June 2020

Notary,  \_\_\_\_\_  
County \_\_\_\_\_

**LISA M.S. KATZ**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 02KA6242350**  
**Qualified in Westchester County**  
**My Commission Expires 05-31-2023**

**SUBMISSION REQUIREMENTS:** (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets  
(2) For a SPECIAL USE PERMIT please-submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions



PHILIPSTOWN ZONING BOARD OF APPEALS  
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?

How close are nearby structures? Will your structure be visible to others or will it block a view? - Do you propose exterior lights?

No detriment to nearby properties which are all visually shielded from one another by trees.

1b. What impacts would the variance have on the character of the neighborhood?

Have others in the neighborhood received similar variances? - Does the Neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? - If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

The scale of the proposed improvements is in keeping with the scale of the structures in the immediate surrounding neighborhood

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?

For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

The 2nd floor addition is over the existing first floor so there is no alternate location.

The proposed carport is in the same location as the existing carport and is the best location because it is at the end of the existing driveway. The pavilion creates an outdoor living space at a flat part of the site.

3. What is Code requirement you seek to vary? front, rear, and sideyard setbacks. And impervious coverage.

How large of a variance do you seek? 6.7 % reduction in sideyard, 1.7% reduction in front yard, 51% reduction in rear yard, 57% increase in allowable impervious coverage

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

**No detriment to current physical and environmental conditions.**

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5. Is the variance requested as a result of a "self-created hardship"?  
Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit?  
Is the need for a variance as a result of someone's mistake? Describe

**House is existing non-conforming.**

**Odd shaped lot creates a condition where the front and rear yard setbacks converge, and eliminate 1 side yard**

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Map data ©2020 500 ft



## 48 Old Albany Post Rd

Garrison, NY 10524



Directions



Save



Nearby



Send to your  
phone



Share

### Photos



PUTNAM COUNTY - STATE OF NEW YORK  
 MICHAEL C. BARTOLOTTI, COUNTY CLERK  
 40 GLENEIDA AVENUE, ROOM 100  
 CARMEL, NEW YORK 10512

COUNTY CLERK'S RECORDING PAGE  
 \*\*\*THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH\*\*\*



BOOK/PAGE: 2141 / 313  
 INSTRUMENT #: 16314-2019  
 Receipt#: 2019025070  
 Clerk: JL  
 Rec Date: 12/20/2019 11:43:29 AM  
 Doc Grp: D  
 Descrip: DEED  
 Num Pgs: 4  
 Rec'd Frm: ESQUIRE TITLE AGENCY, INC.

Party1: OHARA LESLEY  
 Party2: MAXWELL RYAN  
 Town: PHILIPSTOWN

Recording:  
 Cover Page 5.00  
 Recording Fee 35.00  
 Cultural Ed 14.25  
 Records Management - Coun 1.00  
 Records Management - Stat 4.75  
 Processing Fee 1.00  
 TP584 5.00  
 RP5217 Residential/Agricu 116.00  
 RP5217 - County 9.00

Sub Total: 191.00

Transfer Tax  
 Transfer Tax - State 1132.00

Sub Total: 1132.00

Total: 1323.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
 Transfer Tax #: 1157  
 Transfer Tax  
 Consideration: 282921.00

Transfer Tax - State 1132.00

Total: 1132.00

WARNING\*\*\*

\*\*\* Information may be amended during the verification process, and may not be reflected on this cover page.

THIS PAGE CONSTITUTES THE CLERK'S ENDORSEMENT,  
 AS REQUIRED BY SECTIONS 315, 316-a(5) & 319 OF THE  
 REAL PROPERTY LAW OF THE STATE OF NEW YORK

Record and Return To:

ELECTRONICALLY RECORDED BY EPARTNERS  
 Michael C. Bartolotti  
 Putnam County Clerk

party of the first part, and

RYAN MAXWELL

58 Highland Woods Blvd., Highland Mills, New York 10930

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

ten dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Philipstown, County of Putnam, State of New York more particularly described as follows:

See attached Schedule A

BEING AND INTENDED TO BE the same premises by deed dated 05/09/1997 and recorded on 05/09/1997 in the Putnam County Clerk's Office in Liber 1383 Page 347.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

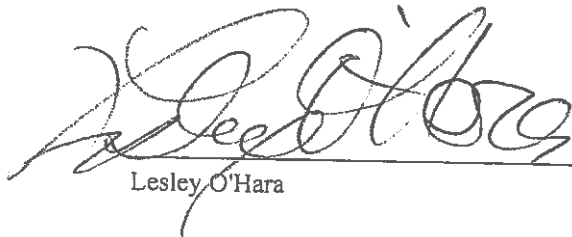
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

\_\_\_\_\_



Lesley O'Hara

\_\_\_\_\_

\_\_\_\_\_

TITLE NO: ESQ7153

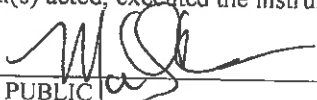
POLICY NO: OX-12946139

**SCHEDULE A**  
**(description)**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Philipstown, County of Putnam, State of New York, being more accurately bounded and described as follows:

Beginning at a point in a stonewall in the easterly line of Old Albany Post Road at the northerly corner of lands of Rhoads (dl. 1613 pg. 486), said point also being the southwesterly most corner of the here-in described parcel; thence from the said point or place of beginning and following along the easterly line of Old Albany Post Road and along a stonewall part of the way the following (4) courses and distances: 1) North 22-50-25 East 96.00 feet to a point, 2) North 29-34-25 East 120.00 feet to a point, 3) North 35-12-58 East 113.64 feet to a point, 4) North 28-49-25 East 94.00 feet to a point; thence along the line of lands of Krause & Galler (dl. 2038 pg. 202) and passing over an x-cut on rock found on line, South 72 degrees 40 minutes 14 seconds East 20.00 feet to a v-cut in top of face wall; thence along the line of lands of City of New York (Catskill Aqueduct) and along the west face of a stonewall the following (9) courses and distances: 1) South 10-33-21 West 178.00 feet to a point, 2) South 07-33-49 West 16.00 feet to a point, 3) South 04-17-28 West 19.57 feet to a point, 4) South 00-24-54 West 30.10 feet to a point, 5) South 03-46-52 East 16.14 feet to a point, 6) South 07-11-55 East 29.00 feet to a point, 7) South 13-53-24 East 35.50 feet to a point, 8) South 22-25-29 East 29.73 feet to a point, 9) South 25-36-12 East 44.05 feet to a point; thence along the line of lands of Rhoads the following (5) courses and distances: 1) South 74-56-30 West 58.86 feet to a point, 2) North 39-52-40 West 75.13 feet to a point in a stonewall, 3) along a stonewall, South 82-47-00 West 35.21 feet to a point, 4) along a stonewall, South 84-44-00 West 55.99 feet to a point, 5) along a stonewall, South 78-17-00 West 38.75 feet to the point or place of beginning.

evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC

MARIA L. CRUSCO  
Notary Public, State of New York  
No. 01CR5035471  
Qualified in Orange County  
Commission Expires October 31, 2022

**ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS  
TAKEN IN NEW YORK STATE**

State of New York, County of \_\_\_\_\_, ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in \_\_\_\_\_ (if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

\_\_\_\_\_ to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said \_\_\_\_\_ execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

NOTARY PUBLIC

the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

**ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE**

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the \_\_\_\_\_ (add the city or political subdivision and the state or country or other place the acknowledgement was taken).

NOTARY PUBLIC

**Bargain & Sale Deed  
With Covenants**

O'Hara  
TO  
Maxwell

Title No. Esq.7153

COUNTY: Putnam  
TOWN/CITY: Philipstown  
PROPERTY ADDRESS: 48 Old Albany Post Road  
SECTION: 83.13  
BLOCK: 1  
LOT: 17

**RETURN BY MAIL TO:**

Mr. Mitchell Maier  
Attorney at Law  
255 Route 32  
Central Valley, NEw York 10917

DISTRIBUTED BY



JUDICIAL TITLE

T. 800 224 TITLE E. 800 EAV 0202

CERTIFICATE OF OCCUPANCY

Application No. 1070

Certificate of Occupancy No. 1070

Location of Premises *100 West 10th St. Albany, N.Y.*

heretofore filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefor and the undersigned having by personal inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this certificate of occupancy is hereby issued under the seal of the Town of Philipstown this *17th* day of *April*, 19*33*.

not valid unless signed in ink by a duly authorized agent of and under the seal of the Town of Philipstown, N.Y.

By *[Signature]*

BUILDING PERMIT

Location of Premises *6 Erie St. Albany, N.Y.* Application No. 1070

heretofore filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, and having paid the required fee in the sum of *\$5.00*; it appearing from the said application that the proposed improvement is intended to and will comply with the requirements of the law as aforementioned, a building permit is hereby granted this *17th* day of *April*, 19*33*.

Additional information *[Signature]*

Not valid unless signed in ink by a duly authorized agent of and under the seal of the Town of Philipstown.

TOWN OF PHILIPSTOWN, NEW YORK

By *[Signature]*



CERTIFICATE OF OCCUPANCY

7111-607-1-2  
New # 83.13-1-17

Certificate of Occupancy No. 3291

Application No. 3291

Location of Premises Old Albany Post Road... 3/4 mile N. of Monticello  
Delia Greenland of Old Albany Post Rd. having

heretofore filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefor and the undersigned having by personal inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the said work and materials meet every requirement of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this certificate of occupancy is hereby issued under the seal of the Town of Philipstown this 9 day of June, 1927.

Not valid unless signed in ink by a duly authorized agent of and under the seal of the Town of Philipstown.

TOWN OF PHILIPSTOWN, NEW YORK

Sturton 7x15 addition

By [Signature] Bldg Inspector

BUILDING PERMIT

7111-607-1-2

BUILDING PERMIT

Application No. 3291

Location of Premises Old Albany Post Rd... 3/4 mile N. of Monticello  
Delia Greenland of Old Albany Post Rd. having

heretofore filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee in the sum of \$15.00, it appearing from the said application that the proposed improvement is intended to and will comply with the requirements of the law as aforementioned, a building permit is hereby granted this 26 day of April, 1927.

Additional information Surrounding addition

Not valid unless signed in ink by a duly authorized agent of and

under the seal of the Town of Philipstown.

TOWN OF PHILIPSTOWN, NEW YORK

By [Signature]

## CERTIFICATE OF OCCUPANCY

SEC-BLK-LOT: 89/83.13-1-17

Permit No : 2005:9574

CO/CC Issue Date: 11/19/2007

CO/CC Number : 2005:9574

OWNER'S NAME: O'HARA LESLEY  
& ADDRESS 48 OLD ALBANY POST RD  
GARRISON, NY 10524

Location of project : 48 OLD ALBANY POST RD

WORK DESCRIPTION : Convert sunroom and open porch to living space; 24 x 24  
open carport

---

A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :

  
Code Enforcement Officer

NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND  
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN

# Town of Philipstown

38 Main Street, PO Box 155

Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

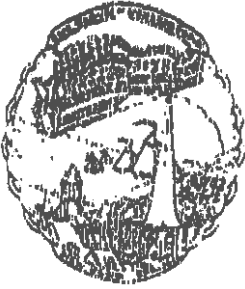
## CERTIFICATE OF COMPLIANCE

SEC-BLK-LOT: 83.13-1-17 Permit No: 2014:11443  
CO/CC Issue Date: 08/29/2019 CO/CC No.: 2014:11443  
Owner's Name and Address: O'HARA LESLEY  
GARRISON, NY 10524  
Location of Project: 48 OLD ALBANY POST RD  
Work Description: INSTALL FIREPLACE INSERT AND CHIMNEY LINER

An application having been filed and the required fee paid, pursuant to the Code of Town of Philipstown, and it appearing from said application that proposed project will comply with the Code of the Town of Philipstown and the New York State Uniform Fire Prevention and Building Code, in all respects, a building permit is hereby granted.

ISSUED BY:

  
C. J. Enforcement Officer



## Town of Philipstown

38 Main Street, PO Box 155  
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

### CERTIFICATE OF COMPLIANCE

SEC-BLK-LOT: 38.-3-57 Permit No: 2018:12547

CO/CC Issue Date: 01/25/2019 CO/CC No.: 2018:12547

Owner's Name CLARK DENNIS  
and Address: 28 LANE GATE RD

Location of Project: 28 LANE GATE RD

Work Description: HVAC - INSTALLATION OF A NEW FUJITSU 36,000 BTU MINI-SPLIT DUCTLESS SYSTEM WITH (1) 24,000 BTU ARU24RLF UNIT FOR LIVING ROOM AND (1) AUU9RLF UNIT FOR THE MASTER BEDROOM

An application having been filed and the required fee paid, pursuant to the Code of Town of Philipstown, and it appearing from said application that proposed project will comply with the Code of the Town of Philipstown and the New York State Uniform Fire Prevention and Building Code, in all respects, a building permit is hereby granted.

ISSUED BY:

  
Code Enforcement Officer

07-2-7-2 CERTIFICATE OF OCCUPANCY

7565

Philipstown Tax Map # 38 Block 3 Lot 57 Fee Paid \$ 35<sup>00</sup>

(Date)

Located At: LANE GATE ROAD

Covering: IRREGULAR WOOD DECK, APPROX 565', 3 SIDES OF HOUSE

JAMES ADAMS of LANE GATE ROAD

having heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefore and the undersigned having by inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the said work and materials met every requirement of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this Certificate of Occupancy is hereby issued

under the seal of the Town of Philipstown this 16<sup>TH</sup> day of MARCH, 1998.

TOWN OF PHILIPSTOWN, NEW YORK

Not valid unless signed in ink by a duly authorized agent and under the seal of the Town of Philipstown.

BY: Tom Monroe  
Building Inspector

new 38-3-57

# CERTIFICATE OF OCCUPANCY

7053E

Philipstown Tax Map # 39 Block 2 Lot 9.2

Fee Paid \$ 335.00 8/2/95

Located At: Lane Gate Rd - N. side - 800' from Rt 9 - Gold Spring Way

Covering: Interior Alterations - Kitchen & Bath

J. Adams III

JAMIE ADAMS of same address

having heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefore and the undersigned having by inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the said work and materials met every requirement of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this Certificate of Occupancy is hereby issued

under the seal of the Town of Philipstown this 19 day of AUGUST, 1997

OLD MAP # CORRECTED TO

39-2-9.2

Not valid unless signed in ink by a duly authorized agent and under the seal of the Town of Philipstown.

TOWN OF PHILIPSTOWN, NEW YORK

3-17-98

BY: [Signature]

Building Inspector

New 38-3-57

# BUILDING PERMIT

7053E

Philipstown Tax Map 39 Block 2 Lot 9.2

Location of Premises Lane Gate Rd - N. side - 800' from Rt 9

Type of Construction: Interior Alterations Kitchen & Bath

Jamie Adams of same address

heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee in the sum of \$ 50.00 (septic) (well) \$ 50.00 (structure) it appearing from the said application that the proposed improvement is intended to and will comply with the requirements of the law as aforementioned, a building permit is hereby granted this 17 day of May 1995, being valid for a period of one year and renewable upon payment of established fee schedule.

INSPECTIONS REQUIRED: Call 265-2608, 2 days notice.

1. Soil conditions: (Footings, forms and reinforcement.)
2. Foundations: masonry, concrete (Transit-mix slips required)
3. Framing: insulation; (prior to drywall or closing)
4. Mechanicals: (rough plumbing, piping, ducts)
5. Final Driveway Inspection.
6. Final Inspection, including safety features.

NOTE: All construction shall comply with the NY State Building Code whether or not shown on approved building plans. This structure, or any portion thereof, for which this permit is issued, shall NOT BE OCCUPIED until a CERTIFICATE OF OCCUPANCY is issued. Permit must be renewed annually until such date of Certificate of Occupancy issuance.

### RENEWALS:

	DATE	FEE PAID
#1	<u>6-7-97</u>	<u>50.00</u>
#2		
#3		
#4		

TOWN OF PHILIPSTOWN

BY: [Signature]  
Building Inspector

OLD MAP # AMENDED TO

39-2-9.2

3-17-98

[Signature]

MAP # CORRECTED TO 39-2-9.2 NEAR 38-3-57 TM-39-2-9.2  
3-17-95 100 Mm CERTIFICATE OF OCCUPANCY

Certificate of Occupancy No. 1257 Application No. 1934

Location of Premises State Gate Rd of State Gate Rd

hereof, filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefor and the undersigned having by personal inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this certificate of occupancy is hereby issued under the seal of the Town of Philipstown this 17 day of April, 1934

Not valid unless signed in ink by a duly authorized agent TOWN OF PHILIPSTOWN, NEW YORK  
of and under the seal of the Town of Philipstown. By [Signature]

MAP # CORRECTED TO 39-2-9.2 BUILDING PERMIT TM 39-2-9.2 NEAR 38-3-57  
3-17-95 100 Mm Application No. 1934

Location of Premises State Gate Rd of State Gate Rd having

hereof, filed an application for a building permit pursuant to the Zoning Ordinance, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, and having paid the required fee in the sum of 100.00 it appearing from the said application that the proposed improvement is intended to and will comply with the requirements of the law as aforementioned, a building permit is hereby granted this 17 day of April, 1934

Additional information Reviewed by [Signature]

Not valid unless signed in ink by a duly authorized agent TOWN OF PHILIPSTOWN, NEW YORK  
of and under the seal of the Town of Philipstown. By [Signature]

APPEAL # \_\_\_\_\_ Tax Map # 38-3-57

Final hearing date \_\_\_\_\_ Zoning Board decision APPROVED / DENIED

Date application submitted June 19, 2020

Application fee \$ \_\_\_\_\_ Escrow \$ \_\_\_\_\_ Received by \_\_\_\_\_

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), Dennis Clark, Denise J. Grillo

residing at 28 Lane Gate Road, Cold Spring, NY 10516

Telephone: home 845-265-0078 business 914-588-6841

HEREBY appeal the decision of (name and title) Greg Wunner, Code Enforcement Officer

whereby he/she

GRANTED \_\_\_\_\_ DENIED X a BUILDING PERMIT X a CERTIFICATE OF OCCUPANCY \_\_\_\_\_

For A replacement deck and 85 sq ft addition to second floor kitchen and bath.

To Dennis Clark and Denise J. Grillo

of 28 Lane Gate Road

For property at tax map # 38-3-57 in zoning district Rural Construction (RC)

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

From junction of Rt 9 and HWY 301, travel south approximately 1/2 mile to Lane Gate Road on the right just past BBQ restaurant. #28 will be on the right just after the junction with Armando Rd.

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

See attached sheet



3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number. Do not quote text of code)

175 attachment 2:1  
Dimensional Table

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

Appeal #914 April 2018.  
Variance was approved for previous addition plans.  
Letter of Denial is attached

TYPE OF APPEAL:

\_\_\_\_\_ an INTERPRETATION of the Zoning Code or Maps

X  a VARIANCE from the Zoning Code

\_\_\_\_\_ a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

This application proposes a 27'-9" side yard setback where a 30'-0" setback is required.

This application also proposes a 27'-3" rear yard setback where a 50'-0" setback is required.

(2) The grounds on which this variance should be granted are:

Side Yard; We are removing a pre-existing non-conforming deck that currently has a side yard setback of 26'-1" and proposing a smaller deck that provides a 27'-9" setback.

Rear Yard; The rear of the existing home has a pre-existing non-conforming setback of 30'-2". The proposed addition of 2' to the second floor does not exceed the existing roof line and proposes a 27'-3" rear yard setback.

(c) a SPECIAL USE PERMIT is requested:

(1) The reason the permit is requested:

(2) An exact statement of use for which the permit is requested:

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

STATE OF NEW YORK, COUNTY OF PUTNAM \_\_\_\_\_

being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief

\_\_\_\_\_  
Signature of applicant or agent

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 2000

Notary, \_\_\_\_\_ County, \_\_\_\_\_

**SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets  
(2) For a SPECIAL USE PERMIT please submit (19) individual packets**

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions

PHILIPSTOWN ZONING BOARD OF APPEALS  
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor

FACTORS TO BE CONSIDERED BY THE BOARD

- 1a. What possible detriment would the variance have on nearby properties?  
How close are nearby structures? -- Will your structure be visible to others or will it block a view? -- Do you propose exterior lights?

Addition proposes no changes to any of these considerations

- 1b. What impacts would the variance have on the character of the neighborhood?  
Have others in the neighborhood received similar variances? -- Does the neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? -- If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

None. Proposed additions and deck maintains the character of the original home.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?  
For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

The existing home is pre-existing and non-conforming at the rear and side yards.

Any proposed work would require a variance.

3. What is Code requirement you seek to vary?  
Setback requirements for side and rear yard setbacks.

How large of a variance do you seek?

Side yard; 2'-3;  
Rear yard; 22'-9"

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

None

5. Is the variance requested as a result of a "self-created hardship"? Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit? Is the need for a variance as a result of someone's mistake? Describe

No. We have owned the property approximately 13 1/2 years.

Existing setbacks are pre-existing and non-conforming



# Town of Philipstown

Code Enforcement Office  
238 Main Street, PO Box 155  
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

Dennis Clark / Denise Grillo  
28 Lane Gate Rd.  
Coldspring N.Y. 10516

3-9-2020

Ref: Application for building permit  
New wrap around deck  
Tax # 38-3-57 (RC Zone)

**Included:**

1. Application for building permit
2. Construction plans
3. Site plans with dimensions

The application proposes a wraparound deck within the rear and side yard set back

The application proposes a 27'-9" side yard setback where 30' is required.

The application proposes a 27'3" rear yard setback where 50' is required

Since the proposal does not comply with the Town of Philipstown dimensional table found in chapter 175 zoning code the application at this time is **DENIED**.

If you are aggrieved by this decision, you may submit an application to the Zoning Board of Appeals pursuant to the provisions of Article IV of the town code within 60 days from the date of this letter. An application is enclosed.

Any questions please contact this office.

Greg Wunner

  
Code Enforcement Officer

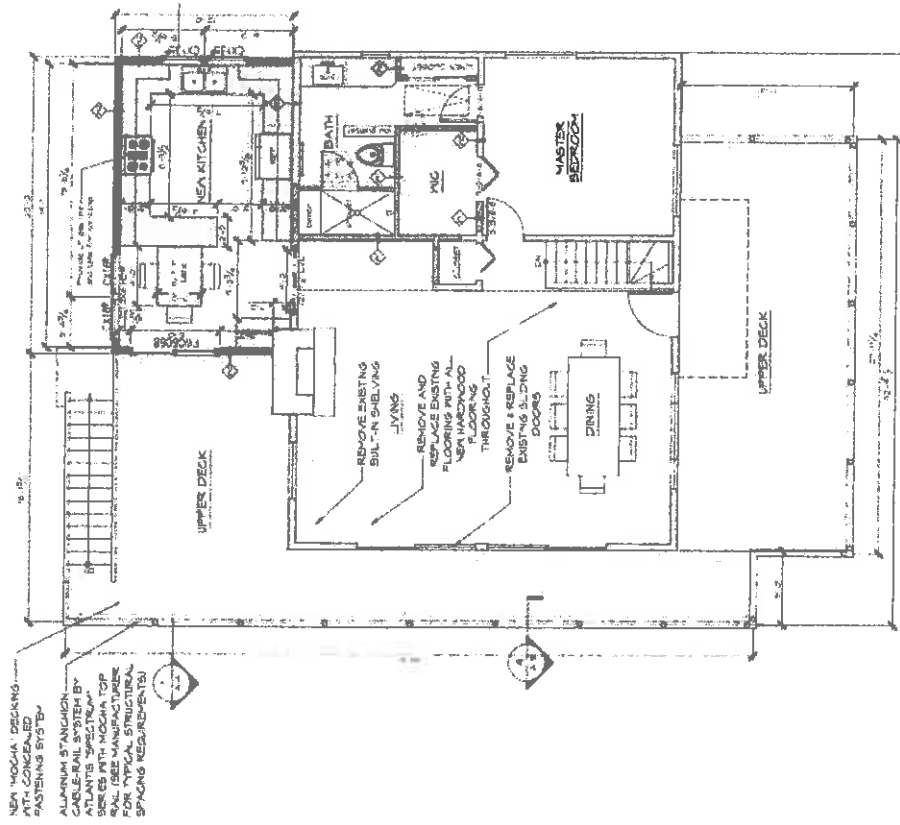
ORIGINAL  
PLANS  
FROM  
VARIANCE  
APPEAL  
#914



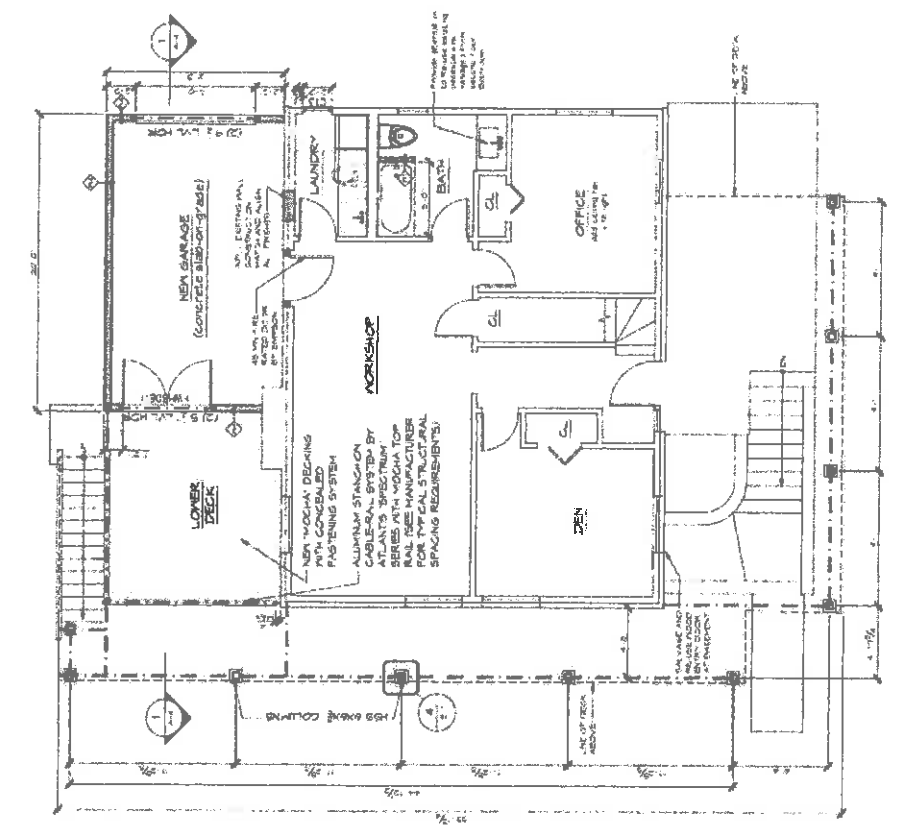
HIGHLANDS  
ARCHITECTURE  
plc

1000 BROADWAY  
4TH FLOOR  
NEW YORK, NY 10018

RESIDENTIAL ALTERATIONS TO  
THE GRILLO-CLARK RESIDENCE  
28 VAN CORTLANDT ROAD  
ROSELAND, NY 10968



2 NEW SECOND FLOOR PLAN  
1/8" = 1'-0"



1 NEW FIRST FLOOR PLAN  
1/8" = 1'-0"