

**ZONING BOARD OF APPEALS**

**May 9, 2011**

**MINUTES**

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, May 9, 2011, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

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

**ABSENT:** Robert Dee - Absent

**Vincent Cestone** - For the record the applicant Dean Anderson and Joseph Libonati asked for a postponement until next month and we granted that. So we are going to move on to Tim Beachuck. Hi, how are you doing?

**Applicant** - Fine how are you?

**Vincent Cestone** - Good.

**Applicant** - We are here again to try and get the sign approved, the free-standing sign.

**Vincent Cestone** - Right. There was certain information that we had asked for. Am I correct in that?

**Applicant** - No.

**Lenny Lim** - No. We went out and we wanted to measure everything and the sign next door.

**Vincent Cestone** - Okay.

**Applicant** - The attorney mentioned that there was something that needed to be cleared up before you could vote on it

**Vincent Cestone** - Oh the 239. We've got that back so we are good.

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**Applicant** - So that's what we were waiting for.

**Vincent Cestone** - It's been 30 days correct? We're good. Okay. Any questions from the board? Any comments from the audience?

**Paula Clair** - Actually I wanted to know if you were aware if the sign complies with the new zoning regulations which are supposedly going to be adopted at the end of the month.

**Vincent Cestone** - Actually this will pre-date that

**Paula Clair** - So it doesn't matter. Okay.

**Adam Rodd** - Yes the application has been submitted fully beforehand so he is okay.

**Paula Clair** - Okay I thought perhaps it might have been more legal in this case. Okay

**Applicant** - The whole problem was that I was above the 4 foot requirement for height. But the square footage was correct

**Vincent Cestone** - Correct

**Applicant** - If we put it straight on the ground it would be fine. But if it snowed, nobody would see it. So that would be the bigger problem.

**Paula Clair** - Right. Okay.

**Vincent Cestone** - Any more questions from the board? I'll make a motion to close the public hearing. Do I have a second?

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

**Vincent Cestone** - All those in favor?

**All Board Members** - Aye

**Vincent Cestone** - Vote. Do we wish to vote?

**Paula Clair** - Yes

**Vincent Cestone** - Okay. Paula?

**Paula Clair** - I vote in favor

**Bill Flaherty** - I vote to approve

**Lenny Lim** - I vote in favor

**Vincent Cestone** - And so do I. You're set

**Applicant** - Thank you

**Vincent Cestone** - You're welcome. Next item on the agenda is K. Kimball Richmond. Hi. How are you doing? We've talked a little bit last month. So explain to us the details and what the issues are if you would.

**Applicant's Representative** - The client would like to, she is expanding this current house which is part of a separate application, but for this application she would like to put a pool house in the area of the current stables on the property. We understand that this is a non-conforming structure and she, ideally for her, she would like the pool house to be located there because obviously she wants to maximize her lawn there and it is grandfathered that location. I believe, and I didn't intend this but when I had drawn this diagram, I was going about information given to me by someone else. But the deck would allow this in the setback but that, I believe I was told by Marianne that it wasn't

**Vincent Cestone** - Any structure is not allowed in the setback

**Applicant's Representative** - Okay. But the fence can be on the property line

**Vincent Cestone** - Right as long as it meets the height requirement

**Applicant's Representative** - Right. And, I'm going to retract that aspect of it. Under, the overhang roof that goes over and then to the small storage, kind of little shed that will be under the roof and if it can be included in the variance, we would be grateful. And if not

**Lenny Lim** - repeat that again please

**Applicant's Representative** - There is a roof over the proposed building and then two storage sheds that are going to come down, that will kind of be enclosed within the same roof line will continue down to the ground to the storage sheds and

**Lenny Lim** - How far is that roof line going? Can you show us? I don't see any measurements from that roof line, from the building to the shed.

**Applicant's Representative** - The new shed

**Lenny Lim** - You said the roof line is going to go to shed

**Applicant's Representative** - Right. The roof line what we are proposing is that it continue over, the roof line continues over the existing footprint and then down to the storage sheds which will be enclosed in this area. So when you are looking this way, that is the elevation.

**Lenny Lim** - So you are not just building on the footprint, you are expanding the footprint a lot now

**Applicant's Representative** - Yeah

**Lenny Lim** - Because the roof line counts as part of the footprint now

**Applicant's Representative** - Oh I see. Okay, we thought

**Lenny Lim** - You originally came in and said you were just going to build on the footprint

**Applicant's Representative** - Okay, then that is my mistake

**Lenny Lim** - This is much bigger than the footprint and I have no measurements here for that new extension to the roof that you are talking about

**Applicant's Representative** - Okay

**Lenny Lim** - Not on anything I have here

**Applicant's Representative** - Okay. It is 38 feet from the corner

**Lenny Lim** - From the shed to the original roof line is how far

**Applicant's Representative** - Shed to the original roof line. You mean right here

**Lenny Lim** - Yes. How far of an extension are you going to make that roof line

**Applicant's Representative** - About

**Lenny Lim** - Not about. We need to know the measurement. So this is in addition to the initial proposal. Now you want build, because your original proposal didn't have the roof going that far. Did it?

**Applicant's Representative** - It did? I just colored the drawing.

**Lenny Lim** - How far is it from the original building to the end of the roof line

**Applicant's Representative - 27**

**Lenny Lim - 27 feet. That's 9 yards**

**Applicant's Representative - This is my mistake, I apologize**

**Adam Rodd -** I think just to streamline this, the zoning code requires structures to be set back at least 30 feet from the side yard and I think if I understand the board, the information that we need and I am not sure if you have it tonight or not, is we would need to know specifically with respect to the structure that you are proposing. Which I understand will be a pool house and two other structures and whatever else we would know specifically which structures are within that 30 foot side yard setback and how far each of the structures is from the lot line. So we know what it is we are asked to approve

**Applicant's Representative - Right**

**Adam Rodd -** And we would need to know that specifically

**Applicant's Representative -** Okay I did with the original site plan

**Adam Rodd -** The red line is the 30 foot setback line

**Applicant's Representative -** Yes this is the 30 foot setback

**Adam Rodd -** Okay, what is within that 30 foot setback that you are asking us to approve

**Applicant's Representative -** This extension towards the south, that would expand as well as the footprint.

**Vincent Cestone -** And since that is not in the 30 foot setback, we are not concerned with that

**Applicant's Representative -** Okay. There is a tiny triangle that is

**Adam Rodd -** Okay. Is that the corner of the pool house overhang that is within the setback. Is that what you are saying

**Applicant's Representative -** The existing overhang is probably within that area. Right now I am showing in this back dash line is the existing footprint, the floor plan of the existing shed. Now I am realize I should have included the roof. I could show it a little bigger to include the overhang.

**Vincent Cestone -** Right

**Applicant's Representative** - And so what I want to ask tonight was are we allowed to have the shed go beyond, but I understand the roof is also

**Vincent Cestone** - Anything that is not in the setback, we are not concerned about. Anything that is in the setback we need exact measurements.

**Applicant's Representative** - Okay.

**Adam Rodd** - There is one other item, I don't mean to,

**Vincent Cestone** - Go ahead

**Adam Rodd** - Where the sheds part of what you presented to the building department or

**Applicant's Representative** - Yeah, I didn't alter this at all, I just colored it. Perhaps that's what makes it read a little bit better. So I have to put in the dimension of for example from the corner of this shed to the stream and the corner of this shed to the property line. I had given some measurements for example that corner of the deck is 7.9 feet from the property line.

**Adam Rodd** - Okay. This was all presented to the building department? This plan here?

**Applicant's Representative** - Yes. I submitted to him, I didn't explain to him in person, he reviewed it on his own.

**Lenny Lim** - But the shed, you are going to build sheds and then cover the sheds with the building

**Adam Rodd** - What I am a little confused about is the application as it came in was to construct a pool house within the side yard setback. There is no mention of any shed, so we are just a little confused as to whether the building department actually reviewed that and issued a denial of a building permit for the sheds. I don't see any mention of sheds and the proposed setback was 15.3 feet and now you're saying the setback from the lot line is actually 7 feet

**(Too many people talking...cannot distinguish the conversation)**

**Applicant's Representative** - ...from the corner of the building itself is 15.3 so we are keeping that corner and we are just expanding this out. I am willing to get rid of all this deck, that is fine. I guess

**Adam Rodd** - So the deck, so I am clear, the deck is not part of this application?

**Applicant's Representative** - I will take it out because I misunderstood the

Code. I will take that portion out.

**Adam Rodd** - So the first structure, the closest structure to the side yard, to the lot line to the north lot line, the closest structure is the pool house

**Lenny Lim** - 15.3 is that the closest it comes

**Applicant's Representative** – correct

**Adam Rodd** - Okay. So the stables are going to be a pool house and remain 15.3 from the lot line

**Applicant's Representative** - Correct. That is the existing

**Lenny Lim** - Is the roof going to overhang more than that?

**Applicant's Representative** - Not any more. And 15.3 I believe is the floor. I will have to ask the surveyor how much the roof overlaps on that because I was just going by the walls. I will double check on that number which I think is wall but could be

**Adam Rodd** - I mean, just looking at your diagram I see there is apparently a shed within the side yard setback

**Applicant's Representative** - This is like a little storage thing with walls and it is carrying the roof load

**Vincent Cestone** - Is that there now

**Applicant's Representative** - No that is not there

**Lenny Lim** - Because that is a proposed shed it is not there yet

**Applicant's Representative** - Correct

**Lenny Lim** - So you are going to build the proposed shed and then enclose it in the building

**Applicant's Representative** - Yes that was what we were hoping to do. This would be the envelope of the existing stable that we were proposing to put the building on but obviously, we were hoping to do something like this because the owner wanted like a covered area. We are willing to adjust.

**Lenny Lim** - That overhang, that roof line is going 27 feet. That is actually doubling the size of the footprint isn't it

**Applicant's Representative** - Yeah. My interpretation

**Vincent Cestone** - You have to understand where our position is. Our position is to grant the smallest variance that we can and what you are proposing here is probably outside of that. And what I am suggesting is that you rethink it and then come back with something a little more scaled back. I am not concerned about anything that is not in the setback, you can do whatever the building department approves. But anything in the setback, that is our concern. The zoning code specifically states that we have to give the smallest variance possible and this is, it can be, I am not saying that it is, but it can be viewed as excessive.

**Applicant's Representative** - We were going for a lot. We will definitely scale back. Since we have developed this, we have a landscape architect on board and she has a completely different idea which we tried to convince the client, so hopefully next time when I come back we will have more

**Vincent Cestone** - Your goal should be to keep the variance request as small as possible. Stay as close to the footprint as possible because if you were right on the footprint, and I can only speak for myself but I would tend to think the other board members would not have a problem with that. But since you are increasing it so much, well, I think you would have a problem

**Applicant's Representative** - Okay. I didn't think about the roof.

**Vincent Cestone** - Anything that extends into the setback we have to consider. So the roof overhang is considered in the setback. You don't have a problem with lot coverage so that is not a concern for us, it is what you have in that 30 foot setback that we are concerned about.

**Lenny Lim** - One more concern, are all these measurements from the roofline or are they from the building?

**Applicant's Representative** - There are some from the building and

**Lenny Lim** - Going to the side line

**Applicant's Representative** - For example, the very \_\_\_\_\_ dimension 7.9 that was from the proposed deck which we are going to take out.

**Lenny Lim** - Let's go with the 15.3. Is that from the building or from the roof

**Applicant's Representative** - That is from the building. I have to check with the surveyor if that dimension is from the roof or from the wall

**Vincent Cestone** - The measurements we want to see is the closest points and that would be the roof overhang but be prepared to talk about the building

structure also just in case that comes up in deliberations. So we need the closest points and in this case it would be the overhang and how close that is to the property line.

**Applicant's Representative** - Great. So in theory, if we stay within like the roof line and but we can build a new structure on top of the existing slab. Is that correct

**Vincent Cestone** - You can request that since it is in the setback you have to request that, I can't speak for the other board members but generally that is not as terrible an issue building it in the current footprint because it is not, we tend to look at it as not changing the look and feel of the community as much as expanding it.

**Applicant's Representative** - Right

**Vincent Cestone** - What I am saying is you have a better chance. And when you come in with your measurements make sure you give us the height of the structure at its highest point. What we do is after this whole process is done, I am going to ask you to provide us with a set of the plans that you are going to submit to the building department and I will sign it and initial it and that would be the plans that you bring to the building department. The ones signed by the zoning board.

**Applicant's Representative** - Okay. And obviously \_\_\_\_\_ zoning board feedback first

**Vincent Cestone** - You don't have the plans now, I understand that. But once we get to that process, the plans that you would submit to the building department you bring it here and the zoning board will look at it to make sure it meets what we agreed upon and then I would sign it and you would bring that to the building department with my signature on it so they know that that's what has been approved. Okay? So what we are going to do, unless you have something else that you wish to present,

**Applicant's Representative** - Are there any other questions

**Vincent Cestone** - Other things we would like to know, adjoiners. The adjoiner on the side that you are looking for the variance. You don't have it on the drawing but we would like to know how close that adjoiner is to the proposed structure

**Applicant's Representative** - Adjoiner

**Lenny Lim** - The next house

**Applicant's Representative** - Oh okay

**Vincent Cestone** - And it doesn't have to be an exact number, it doesn't have to be a survey, you can say it is 200 feet, 300 feet, whatever it is. And if they don't have line of sight with this structure, you tell us that.

**Applicant's Representative** - Okay. The house is somewhere over here

**Vincent Cestone** - Not for tonight. The next time you come before us you can have that information, it will be very helpful

**Applicant's Representative** - Okay. All right.

**Vincent Cestone** - Is there any more questions from the board? I would say is there any comments from the audience, just for the record there is no one in the audience except for a couple of people who are part of the organization.

**Adam Rodd** - I would recommend that you have a set of plans that show specifically distances from the lot line. That's what we are going to be asked to approve. I don't believe at this point that the building department knows anything about the shed since there is nothing in the write up and you don't state anything about a shed. So I would encourage you when you get a plan that have distances to bring it to the building department so they can indicate specifically the type of variance you need for the shed.

**Vincent Cestone** - My suggestion is that that shed go away

**Applicant's Representative** - I understand.

**Vincent Cestone** - That other one outside of the setback, we are not concerned about.

**Applicant's Representative** - Okay

**Vincent Cestone** - As long as the building department approves it, we are not concerned.

**Applicant's Representative** - Okay. Would that be counted as a separate structure? Even if it is joined by the same roof?

**Vincent Cestone** - Well that would be a question to ask the building department

**Lenny Lim** - If the roof extended all the way over to the shed, is that a separate structure or the same? I think it is the same structure. Same roof.

**Adam Rodd** - Regardless, at that juncture you are going outside of the footprint

and need a variance

**Applicant's Representative - Right**

**Adam Rodd -** But the shed, I don't think the building department is aware of that and it is not in the write up

**Applicant's Representative –** okay. I will advise my client.

**Vincent Cestone -** Our next meeting is June 13<sup>th</sup>. And anything you have you can submit it ahead of time for us to review, that would be great.

**Applicant's Representative -** Colored version would help?

**Vincent Cestone -** Whatever you choose

**Lenny Lim -** Whatever makes it easier for us to read

**Applicant's Representative -** Okay

**Vincent Cestone -** Okay. Review of Minutes of February 14<sup>th</sup>. Any additions or corrections? I make a motion to accept the minutes as submitted. Do I have a second?

**Bill Flaherty -** Second.

**Vincent Cestone -** All those in favor

**All Present Board Members –** Aye

**Vincent Cestone -** April 4<sup>th</sup>. Any corrections?

**Bill Flaherty -** Yes I have corrections. On page 13 Kim. Where "she had applied to the FDA" should be SBA. Food and Drug Administration I don't think gives.

**Kim Shewmaker -** You should try and hear the tape

**Bill Flaherty -** And after the bureaucratic process I would like to add, through no fault of her own she got caught up in a time consuming process even though she did everything right and may filings on time. By not giving her additional opportunity to appear before the board within a year, she will have to make out new applications at additional expense to her for the filing of a new application. Other than that I have not other changes.

**Vincent Cestone -** Do you want to resubmit them or

**Kim Shewmaker** - I'll resubmit them

**Vincent Cestone** - Okay. So we will continue that over to the next meeting. Any old or new business? I make a motion to adjourn

**Lenny Lim** - Second

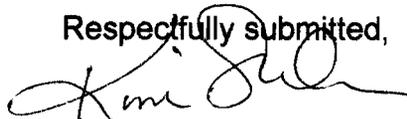
**Vincent Cestone** - All those in favor

**All Present Board Members** - aye

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

**DATE APPROVED:** 6/13/11

Respectfully submitted,



Kim Shewmaker  
Secretary