

June 14, 2004

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JUNE 14, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA

ALTERNATE: KATHLEEN LOCEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

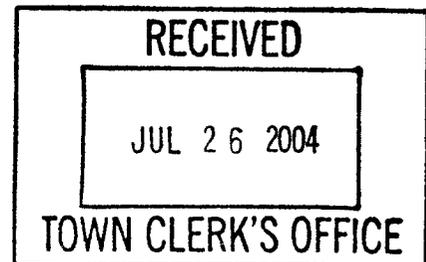
ABSENT: JOSEPH MINUTA

REGULAR MEETING

MR. KANE: I'd like to call to order the June 14, 2004 meeting of the New Windsor Zoning Board.

APPROVAL OF MINUTES DATED APRIL 26, 2004 & MAY 10, 2004

MR. KANE: Motion to accept the minutes of April 26 and May 10.



MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: One quick note to the board members before I forget, don't forget to turn in your old code books. Normally, we do the preliminary meetings, then we do the public hearings, at some point, I may move the last one Strategic Homes up when those people arrive because I have one member that's back from being ill, he's not feeling too good, so if those people come and show up, I may like to jump those up.

WOODLAND MONTESORRI SCHOOL (04-40)

MR. KANE: First preliminary meeting would be Woodland Montesorri School. Request for one additional free-standing sign, 48 sq. ft., one 6 square foot sign on existing free-standing sign, one 6 square foot sign on existing free-standing sign all at 880 Jackson Avenue.

Mr. Henry Leyen appeared before the board for this proposal.

MR. LEYEN: Well, they want to put a sign up on our property, the display sign that they can put on, change the lettering as to when they have special events or if they want the enrollment for the following year and it's going to be put right next to an existing sign that's there.

MR. KANE: Existing freestanding?

MR. LEYEN: Yes.

MR. BABCOCK: Mr. Chairman, they were in a year ago, I would say, and got some variances for the existing signs there. Now this is one of their tenants that actually put up a sign, actually, it's down now right.

MR. LEYEN: Yes.

MR. BABCOCK: We asked them to take it down until they receive a variance and they did right away, they also added a sign, I don't know whether Myra you've got pictures, yeah, I do, they added this sign to us, this is the sign they got a variance for and they added this little small one here and this one and then there's a sign where they changed the entrance cause of the red light there, there's a sign down on Jackson Avenue which is on their property and they added that to that also. So they got one on the entrance so they're

looking for--

MR. KANE: So would that be the 6 square?

MR. BABCOCK: Yes.

MR. KANE: On both, one would be the small signs on the existing ones?

MR. BABCOCK: Yes.

MR. KANE: Now, where in conjunction, this is the other freestanding sign we're talking about that they want?

MR. BABCOCK: Yes, that's going to go right next to the other one that says.

MR. LEYEN: Right next to this one instead of being on the other side of the driveway it's going to be exactly, it's going to be right next to this sign right here, in other words, our driveway is between this sign and this sign so what happened when they put the light in that really messed up all the signs for the schools and it created problems.

MR. KANE: What I'd like you to do for the public portion of the hearing is get me some photographs from the road down a bit so that we can see how the traffic sees the signs coming back and forth.

MR. LEYEN: All right.

MR. KANE: Are the signs illuminated at all?

MR. LEYEN: No.

MR. KANE: Absolutely no lighting whatsoever?

MR. LEYEN: No lighting whatsoever.

MR. KANE: This is the smallest possible sign that you need?

MR. LEYEN: Yes.

MR. REIS: Don't have to cut down any shrubbery or foliage to accomplish this?

MR. LEYEN: No.

MR. REIS: Not going to be over any easements or right-of-ways?

MR. LEYEN: No.

MR. MC DONALD: Diagonal to the wall, you're not ruining sight distance, it won't hinder any visual approaches to the road or anything?

MR. LEYEN: Absolutely not, no.

MR. KANE: We'll see that with pictures for the public portion. Any other questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion we set up Woodland Montesorri School for the requested variances at 880 Jackson Avenue.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: So you will be coming back to the public hearing, you've been through this before.

MR. LEYEN: Yes.

MS. MASON: That just tells you what to do next.

MR. LEYEN: Thank you very much.

MR. KANE: Just a note what the Town of New Windsor does is we hold preliminary hearings so everybody can get an idea of what we're looking for from you, from your request. Other towns do it cold, when you walk in if you don't have the right information you lose. When we go to the public hearing, every decision has to be made at a public hearing, you will have a good idea what we need from you to make an informed decision on your request. Okay, so that's what we're doing right now.

JOSEPH ANTONACCI (04-41)

Mr. Joseph Antonacci appeared before the board for this proposal.

MR. KANE: Request for 5 ft. side yard setback and 5 ft. rear yard setback for proposed pool at 2721 Colonial Drive in an R-3 zone.

MR. ANTONACCI: That's what we're asking for.

MR. KANE: Seems you're pushing it back towards the corner?

MR. ANTONACCI: Yes, sir.

MR. KANE: Above-ground or in-ground?

MR. ANTONACCI: In-ground.

MR. KANE: And from the looks of your property again for the record this is the only place that you could actually looking at this, it's an average size pool so it's not an over-sized pool and basically any pool that's put in this particular back yard you're going to need some kind of variance for anyway.

MR. ANTONACCI: Correct.

MR. KANE: Pool itself is not bigger than other pools in your neighborhood?

MR. ANTONACCI: No, actually, it's smaller than my neighbor's.

MR. KANE: Yeah, it's not an inordinately big one.

MR. ANTONACCI: Had I known that the house was going to take up that setback area, I would have built maybe a smaller house but the salesperson wanted to sell me a

bigger house so--

MR. MC DONALD: We're looking for the 5 yard?

MR. KANE: Yeah, 5 from the rear, 5 from the side, it's going to go right back in the corner, there will be no obvious answer right here in the pictures but no cutting down of trees or any vegetation?

MR. ANTONACCI: Nothing there yet.

MR. KANE: Creating any water hazards or runoffs?

MR. ANTONACCI: No.

MR. KANE: Any easements through your back yard?

MR. ANTONACCI: Just what's in the deed for the utility companies, not the back yard, I guess it's the front.

MR. KANE: Nothing within the pool area.

MR. ANTONACCI: No.

MR. MC DONALD: Five foot from this property line, in the past up in your area we have run into problems when it comes to the public hearing this guy that owns this lot wants to know why you're putting it five foot when you've got such a big yard. We've had, you know, over there problems are going to come up.

MR. ANTONACCI: If I go over, this is not to scale but if I go over, I would be right in front of my front door with the pool.

MR. MC DONALD: Cause that will come up.

MR. ANTONACCI: Actually, that guy here that lives next door to me he already bought his float to come in the pool.

MR. KANE: Who's building your pool?

MR. ANTONACCI: George.

MR. KANE: You understand if this if the variance is granted, you'll still be required to meet all the regulations from the building department?

MR. ANTONACCI: Absolutely, that's why I hired George.

MR. KANE: Any other questions, guys?

MR. MC DONALD: Accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Make a motion that we set up Mr. Antonacci for a public hearing for his request for the five foot side yard setback and five foot rear yard setback at 2721 Colonial Drive.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

HUDSON VALLEY IMAGING CENTER (04-42)

Mr. Chris Bette appeared before the board for this proposal.

MR. KANE: Request for 3.5 ft. width for proposed facade sign at 575 Hudson Valley Avenue in AP-1 zone.

MR. KANE: We have another one coming on the next preliminary, different business.

MR. BABCOCK: He's representing both.

MR. KANE: Are there any other stores in this particular building that's going to need signage?

MR. BETTE: No, this is a medical office building.

MR. KANE: Just going to be these two and nothing else?

MR. BETTE: Correct.

MR. KANE: Okay, sir, your name for the young lady.

MR. BETTE: My name is Chris Bette, I'm with First Columbia, the owners of the medical office building at Route 207 and Hudson Valley Avenue. We're requesting two signs, one to brand the building, get the building and identity, actually, item number 4 we're going to call the building the Medical Center of New Windsor. In addition to that, we're allowing St. Luke's Hospital the ability to put a sign on the other side of the building to promote and showcase them as a Town of New Windsor corporate resident so we're going to in New York International Plaza our commercial development we're going to try to carry out throughout all the buildings a mechanism to either brand the buildings or showcase our major tenants.

MR. KANE: Mike, I've got a question for you. Our

agenda is saying a request for ten foot width for proposed facade sign and your denial is--

MS. MASON: That was changed, it was changed, they changed the numbers after we sent out the agenda.

MR. BETTE: Yes, St. Luke's/Cornwall Imaging Center is changing their name to Hudson Valley Imaging and we have submitted the new sign request to Myra last week.

MR. KANE: So you're going for a 20 foot?

MR. BETTE: It's actually shorter now, Hudson Valley Imaging is--

MR. KANE: My question is answered, okay. Will the sign be illuminated at all?

MR. BETTE: We're going to do two things with illumination, we're going to illuminate the signs via ground mounted up lighting which in addition is going to highlight the building itself.

MR. KANE: There will be no flashing?

MR. BETTE: No flashing, no.

MR. KRIEGER: Signs don't move?

MR. BETTE: Signs don't move, it's solid letters adhered to the brick.

MR. KRIEGER: One sign is on one facade, one is on another?

MR. BETTE: If you're familiar with the building, we have a glass entryway, the Medical Center sign will be on the, looking at the building on the left side and the St. Luke's sign will be on the right side.

MR. REIS: Do you have photos of this?

MS. MASON: Yes, this is a better one here, this is the next one, the next application it's got a better picture.

MR. KANE: Len and Steve, do you have on your, it's a 3.5 foot variance, that's what they're looking for, not 10.

MR. BETTE: That's correct, that's our sign, medical Center of New Windsor. The St. Luke's/Cornwall Imaging will be changed, will be on the other side which would be the Hudson Valley Imaging.

MR. KANE: Any further questions about this one?

MR. MC DONALD: Medical Center of New Windsor, that's going to be up there too?

MR. BETTE: That's going to be looking at the building, we're going to have a Medical Center of New Windsor in this corner and Hudson Valley on that side of the glass.

MR. KANE: Mike, if they have the Medical Imaging sign up there and then they're going for the Hudson Valley Imaging and the First Columbia, do we have enough signs covered here?

MR. BETTE: Two signs total 27 total, one is going to say Medical Center of New Windsor, one's going to say Hudson Valley.

MR. BABCOCK: Right now we're doing Hudson Valley Imaging that's all we're talking about then when he steps back we have another denial.

MR. KANE: First Columbia is for Medical Center of New Windsor?

MR. BABCOCK: Yes.

MR. BETTE: Correct.

MR. KANE: Since we're doing these signs, there's no plans on adding any other signs, any type of ladder sign to this in the future?

MR. BETTE: No.

MR. KANE: Going to be a closed case right here?

MR. BETTE: Yes.

MR. MC DONALD: Only tenants you have in the building right now?

MR. BETTE: St. Luke's Imaging is our major tenant, they take up half of the first floor, we have three or four or five other tenants in the building.

MR. MC DONALD: They won't be back for anything?

MR. BETTE: No, at this point in time, we haven't allowed anybody else except St. Luke's.

MR. KANE: Any other questions on this?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion we set up St. Luke's/Cornwall Hudson Valley Imaging Center for a public hearing for the requested 3.5 foot width for proposed facade sign at 575 Hudson Valley Avenue.

MR. MC DONALD: Second it.

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ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

FIRST COLUMBIA (04-43)

Mr. Chris Bette appeared before the board for this proposal.

MR. KANE: You're going for .83 foot and 1.5 foot variance?

MR. BETTE: This sign is three rows of lettering so I think we might fit into the width requirement, we don't fit into the height requirement.

MR. BABCOCK: No, the width is a little over also. You got this, Mr. Chairman, this is the sign that we're talking about now?

MR. KANE: But he's only .83 on the height?

MR. BABCOCK: Yeah.

MR. KANE: And 1 1/5 on the length. Again, any illumination on this sign?

MR. BETTE: Same, we're going to have ground and uplighting.

MR. KANE: No flashing? Separate things, we have to go through.

MR. BETTE: No, solid lettering, similar, same color as the other sign.

MR. KRIEGER: How far off the roadway is the facade?

MR. BETTE: I knew you were going to ask me that.

MR. KRIEGER: Approximately?

MR. BETTE: It's over 100 feet, I think we're about 130 feet from the edge of the road.

MR. REIS: Proportionately for the size of the building.

MR. BETTE: The building is 250 feet long.

MR. BABCOCK: He's entitled to have one wall sign for every tenant that he has in the building so he's really only asking for the two and he's got how many tenants?

MR. BETTE: Five or six.

MR. MC DONALD: Accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Make a motion we set up First Columbia for the requested hearing for the .83 foot and 1.5 foot variance for the proposed facade sign at 575 Hudson Valley Avenue.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. BETTE: Thank you very much.

HOWARD BROWN (04-44)

Mr. Howard Brown appeared before the board for this proposal.

MR. KANE: Request for 4 ft. rear yard setback for existing 10 ft. x 14 ft. lower deck, 10 ft. rear yard setback for existing 16 ft. x 20 ft. upper deck and 7 ft. rear yard setback for existing 10 ft. x 12 ft. shed all at 120 Glendale Drive in an R-4 zone. Tell us what you want to do.

MR. BROWN: Just want to get a variance to make everything okay.

MR. KANE: How long have the decks been up?

MR. BROWN: Since '99, I believe.

MR. KANE: Any permit taken for the decks?

MR. BROWN: Yes.

MR. KANE: What about the shed, how long?

MR. BROWN: Shed has been up a while, about 15, 20 years.

MR. KANE: Any complaints?

MR. BROWN: Everybody in the neighborhood, everybody has their own shed and deck and the shed as you can see in the picture is in an inconspicuous area, doesn't even stand out, that's the deck.

MR. KANE: Mike, not that it makes a difference but if you're doing the back, the rear setback for the upper deck doesn't the lower deck since it's underneath it fall into that variance?

MR. BABCOCK: Yes, it does but, Mr. Chairman, what we did is we wrote these all up separately in case he was not successful with one but maybe the other.

MR. KANE: Cutting down of trees or removing of substantial shrubbery?

MR. BROWN: No.

MR. KANE: Create any water hazards or runoffs with the building of the deck?

MR. BROWN: No.

MR. KANE: As you said, the decks and the shed are similar to other decks and sheds in the neighborhood?

MR. BROWN: Absolutely. In fact, this is in the back corner of the neighbor, everybody else's shed is in their back corner.

MR. KANE: Right.

MR. MC DONALD: It's not over any easements or anything?

MR. BROWN: No.

MR. KANE: I'm okay.

MR. REIS: Accept a motion?

MR. KANE: Was the shed built on a cement pad or--

MR. BROWN: No, it's on cinderblock foundation, it's removable.

MR. KANE: And we covered no complaints either formally or informally, right? Anything else? Okay, I'll accept your motion.

MR. REIS: Make a motion that we set up Mr. Howard Brown for his requested 4 foot rear yard setback for existing lower deck, 10 foot rear deck yard setback for existing upper deck and 7 foot rear yard setback for existing shed all at 120 Glendale Drive.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

WILLIAM SHERMAN (04-45)

Mr. and Mrs. William Sherman appeared before the board for this proposal.

MR. KANE: Request for 3 ft. side yard setback for proposed 8 ft. x 10 ft. shed at 9 Lakewide Drive in an R-4 zone. Tell us what you want to do?

MR. SHERMAN: We want to put up an eight foot wide by ten foot long shed on the side of our house between our property and the neighbor's property.

MR. KANE: Shed is similar in size to other sheds in the neighborhood?

MR. SHERMAN: Yes.

MR. KANE: It's not existing right now?

MR. SHERMAN: Right.

MR. KANE: Tell me why we can't put it in a place that you don't need a variance?

MR. SHERMAN: Don't have any other place on the property to put it.

MRS. SHERMAN: Behind the house is a steep slope, down the other side of the house is our driveway.

MR. KANE: This is the only safe area that you can put a shed which is almost a necessity nowadays?

MR. SHERMAN: Yes.

MR. KANE: Will you be cutting down any trees or removing any shrubbery with the building of the deck?

MR. SHERMAN: No.

MR. KANE: You understand that if you do get a variance on this, you'll need to pass all the requirements from the building department?

MR. SHERMAN: Yes.

MR. MC DONALD: It's not over any easements, water or sewer lines, anything like that?

MRS. SHERMAN: No.

MR. KANE: Are you going to be bringing any power out to the shed?

MR. SHERMAN: No.

MR. MC DONALD: Is this going to be over a poured foundation, a slab, concrete blocks, how is it going to be set?

MRS. SHERMAN: I don't remember what he told us.

MR. KANE: Don't have to answer that. For the public hearing, find out so we can have it in the record whether it's just going to be on railroad ties or sitting directly on the ground. This is the side that the shed is going on right here?

MR. SHERMAN: Yes.

MR. KANE: Will it be visible from the street?

MRS. SHERMAN: In the winter, yes, summer, no, seasonal visibility.

MR. KANE: No further questions from me.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion we set up Mr. Sherman for his requested three foot side yard setback for proposed shed at 9 Lakeside Drive.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

ROBERT VASTA (04-46)

Mr. Steve Kuprych appeared before the board for this proposal.

MR. KANE: Request for 11 ft. front yard setback for proposed addition on a corner lot at 300 Stephenson Lane in an R-4 zone. Tell us what you want to do, explain it to us.

MR. KUPRYCH: We would like to put an addition on the side of this house, 22 x 34, that's preliminary right now, that's a two car garage with a small family room and a master bedroom above and that was the request.

MR. KANE: And, Mike, the only reason they're in here is it's a corner lot? If not, they wouldn't be here?

MR. BABCOCK: That's correct.

MR. KANE: Will you be cutting down trees or removing substantial shrubbery?

MR. KUPRYCH: There may be one pine tree that has to come down.

MR. KANE: Create any water hazards or runoffs?

MR. KUPRYCH: No.

MR. KANE: Over any easements in this area?

MR. KUPRYCH: No.

MR. KANE: The building of the garage and the living space above it's not going to block the view of the traffic coming from either Stephenson Lane or Keats?

MR. KUPRYCH: No.

MR. KANE: For the public hearing, I would request some visible, some pictures from across the street of the home, both angles so we can see that.

MR. KUPRYCH: Okay.

MR. REIS: Mike, with the new driveway we're not encroaching on the developmental coverage?

MR. BABCOCK: Apparently, that wasn't looked at. Will you be taking out the old driveway?

MR. KUPRYCH: Yes.

MR. BABCOCK: Are you having to--

MR. KUPRYCH: Yes.

MR. BABCOCK: We can calculate that and have it for the public hearing.

MR. KANE: With your permission, if we need something for developmental coverage we'll add that to the request.

MR. KUPRYCH: Okay.

MR. KANE: We'll make sure everything's covered as long as you're here and the homeowner doesn't have to go through it again. Basically what he's talking about a developmental coverage you have the pool, concrete patio, deck over here, the driveway counts and the home and you're only allowed a certain percentage of developmental coverage so we want to make sure you're covered, if not, we'll add it to the application.

MR. KUPRYCH: Okay.

MR. REIS: We're not looking for a problem, just trying to solve one if it exists.

MR. KUPRYCH: Okay.

MR. KANE: That's it for now. Anything?

MR. MC DONALD: Accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Make a motion we set up Mr. Robert Vasta for his request for 11 foot front yard setback for proposed addition.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

FRANK MALLOY (04-47)

Mr. Frank Malloy appeared before the board for this proposal.

MR. KANE: Request for 9 ft. rear yard setback for existing attached rear deck and 5 ft. side yard setback for existing shed all at 67 Cedar Avenue in an R-4 zone. Tell us what you want to do.

MR. MALLOY: Request a variance for my rear deck and shed.

MR. KANE: How long has the deck been up?

MR. MALLOY: Two years.

MR. MC DONALD: No complaints formal or informal?

MR. MALLOY: No, I checked my neighbors before I did it and there was a deck there and they said no problem anyway.

MR. KANE: What size deck is it?

MR. MALLOY: 16 x 20.

MR. KANE: And the shed, how long has that be around?

MR. MALLOY: It's a newer shed so I would say two years, 2 1/2 years.

MR. KANE: Is it on a concrete pad?

MR. MALLOY: No, it's actually just on shale, it's movable.

MR. KANE: If it's movable, tell me why you can't move it?

MR. MALLOY: Actually, a driveway that was put in and it just happened to fit in that corner area so it kind of fits in that corner.

MR. KANE: Similar to other sheds in that area?

MR. BABCOCK: If he moves it in, it will be on his driveway.

MR. KANE: I figured he said it's movable, I better cover the question.

MR. BABCOCK: I guess what he's saying is anything is movable. Do you see the site plan there?

MR. KANE: Yes. If you put it anyplace else on your property, it would be either a safety hazard for the pool or you'd need a variance?

MR. MALLOY: Correct, it's a tight lot.

MR. KANE: That answers that question. Do you know was there any cutting down of trees or substantial vegetation?

MR. MALLOY: No.

MR. REIS: Not going over any easements or right-of-ways?

MR. MALLOY: No.

MR. KANE: Not creating any water hazards or anything like that?

MR. MALLOY: No.

MR. KANE: Okay, I think I've got enough.

MR. RIVERA: These are all existing, what brings you

before the board?

MR. MALLOY: I was looking to sell my house and clean up all the existing C.O.s that were there or C.O.s for the permits if you want to say.

MR. KANE: Any other questions?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: Move we set up Mr. Frank Malloy for his requested 9 foot rear yard setback for the existing attached rear deck and 5 foot side yard setback for the existing shed all at 67 Cedar Avenue.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

THOMAS LARKE (04-32)

Mr. Thomas Larke appeared before the board for this proposal.

MR. KANE: Request for 10 ft. front yard setback and 8 ft. rear yard setback for proposed pool on a corner lot at 221 Lake Road in an R-4 zone. Tell us what you want to do.

MR. LARKE: I want to install, Orange County Pool actually is going to install a 24 foot above-ground round pool in my rear property.

MR. KANE: And I better state this now for the record, the Orange County Pools you're dealing is from what town?

MR. LARKE: New Windsor.

MR. KANE: I do not work for them but the company has the same name. I work out of Carmel, so, for the record, I do not work for them.

MR. MC DONALD: The proposed pool won't be over any easements or create any abnormal runoff or anything like that?

MR. LARKE: No, sir.

MR. KANE: Is your yard fenced in?

MR. LARKE: Yes, it is.

MR. KANE: So the pool itself, even though it's on a corner will be inside the fence, even though that's not a state requirement? But pool is similar in size to other pools in your neighborhood?

MR. LARKE: Yes, it is, sir.

MR. KANE: Again, the only reason we have him in here tonight is because of the corner lot scenario?

MR. BABCOCK: Yes

MR. KANE: Cutting down any trees or substantial vegetation in the building of this?

MR. LARKE: No.

MR. KANE: Will you create any water hazards or runoffs?

MR. LARKE: No, I won't.

MR. KANE: Going over any easements in that particular area?

MR. LARKE: None.

MR. RIVERA: Is it an above-ground or inground?

MR. LARKE: 24 foot above-ground.

MR. KANE: Who's building it?

MR. LARKE: R & R. I don't know who's installing it.

MR. KANE: R & R probably.

MR. KANE: And your understand at this point if that's passed by this board that you will be required to pass all the regulations from the building department in the building of the pool?

MR. LARKE: Yes.

MR. KANE: At this point, I will open it up to the public and seeing as there's no public, we'll close that portion and ask Myra how many mailings?

MS. MASON: On the 17th of May, I mailed out 39 addressed envelopes and got no responses.

MR. KANE: Can you tell us why the pool itself cannot for the record be located elsewhere on your yard so you wouldn't need a variance?

MR. LARKE: Yeah, the other side of the parcel is surrounded by trees and that particular pool wouldn't fit right there. That location is the most open area on the parcel.

MR. KRIEGER: And it's a triangular piece of property?

MR. LARKE: Yes.

MR. KRIEGER: Bordered on two sides by roadways?

MR. LARKE: Yes.

MR. KANE: If you put it in the other corner with the stone wall you'd need to be well off that stone wall to qualify so it wasn't be a safety hazard so you'd still need a variance?

MR. LARKE: Right.

MR. KANE: Okay, are you over any easements?

MR. LARKE: No.

MR. KANE: Any other questions?

MR. MC DONALD: Accept a motion?

MR. KANE: Yes.

MR. MC DONALD: I make a motion that we grant the approval of the requested ten foot front yard setback and eight foot rear yard setback for proposed pool on the corner lot at 221 Lake Road in an R-4 zone.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

VICTOR REICH (04-34)

Mr. Victor Reich appeared before the board for this proposal.

MR. KANE: Request for 10 ft. rear yard setback for proposed 16 ft. x 35 ft. attached rear deck at 2417 Settler's Ridge in an R-3 zone. You need to speak up so this young lady can hear you.

MR. REICH: Victor Reich, R-E-I-C-H.

MR. KANE: Tell us what you want to do.

MR. REICH: I'd like to build a deck 16 I think by 30 in the back of my house attached to the back of my house.

MR. REIS: Just for the record, proposal says 16 x 35.

MR. REICH: I think it's 35.

MR. KANE: Well then the main question becomes which needs the 10 feet, the 16?

MR. BABCOCK: Yes.

MR. KANE: The 16.

MR. REICH: Yeah, 16 x 35, I'm sorry.

MS. MASON: Mike, check the numbers.

MR. BABCOCK: Yeah, it's 16 x 35.

MS. MASON: I have proposed or available 20, is that right?

MR. BABCOCK: Yes.

MR. KANE: And he needs 30. No, no, his deck is 16, the width of his deck is 16. Will you be cutting down any trees or substantial vegetation in the building of the deck?

MR. REICH: No.

MR. KANE: Create any water hazards or runoffs?

MR. REICH: No.

MR. KANE: Any easements where the deck is going to go?

MR. REICH: I'm sorry, what are easements?

MR. KANE: It's a right-of-way for public utilities for the town.

MR. REICH: No.

MR. KRIEGER: An easement is the right for somebody else to use your property.

MR. REICH: No.

MR. MC DONALD: Looking at the pictures you didn't have a deck if you came out the door you'd have kind of a safety hazard?

MR. REICH: Yes.

MR. KANE: The size and configuration of the deck is similar to other decks that you have seen in the area?

MR. REICH: Yes, my neighbor has one.

MR. KANE: Without the deck, a walk out the rear door is going to be a safety hazard?

MR. REICH: Yes.

MR. KANE: I will ask if there's anybody in the public for this particular hearing? Seeing as there is not, we'll open and close the public hearing and ask Myra how many mailings?

MS. MASON: On the 17th of May, I mailed out 37 addressed envelopes and I had no responses.

MR. KANE: Do you guys have any more questions?

MR. MC DONALD: No.

MR. REIS: Accept a motion?

MR. KANE: Yes.

MR. REIS: I make a motion that we approve Mr. Victor Reich's request for ten foot rear yard setback for proposed 16 x 35 foot attached rear deck at 2417 Settlers Ridge.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

WILLIAM BYWATER (04-33)

Mr. William Bywater appeared before the board for this proposal.

MR. KANE: Request for 15 ft. front yard setback for proposed front/side addition at 115 Birch Drive in an R-3 zone. Tell us what you want to do.

MR. BYWATER: Put on a two car garage and a second floor to the ranch house but the variance is because I'm coming forward with the porch which is new construction because of the recent setback although it's only coming 4 feet forward the new requirement is that it's a 15 foot variance.

MR. KANE: So this is going to, is it like so this is your house and so this is going to sit on an angle like this?

MR. BYWATER: Yes.

MR. KANE: The drawing that you have right here, Mike, the front yard setback is that for the porch?

MR. BABCOCK: Well--

MR. KANE: Or is the garage sticking out?

MR. BABCOCK: The garage is sticking out 4 foot farther than the house. If he stayed even with the house, he wouldn't be here tonight. Since he's coming out closer to the road, we used the 45 foot required front yard setback.

MR. KANE: You want that 4 feet, huh?

MR. BYWATER: Yes.

MR. KANE: Cutting down any trees or substantial

vegetation in the building of the addition?

MR. BYWATER: No.

MR. KANE: Create any water hazards or runoffs?

MR. BYWATER: No.

MR. KANE: Will the building of this garage and addition make the home overly big for your neighborhood?

MR. BYWATER: No.

MR. MC DONALD: One story?

MR. BYWATER: It's one story now and then I'm adding this on.

MR. REIS: Mike, did you see the drawings?

MR. BABCOCK: I'm seeing them right now.

MR. REIS: Any height variance?

MR. BABCOCK: No, he's allowed 35 feet, I'm sure he's within that.

MR. KANE: Any questions at this point, guys? Is there anybody in the public for this particular meeting? Seeing as there is not, we'll open and close the public portion and ask Myra how many mailings we had?

MS. MASON: On the 17th of May, I mailed out 26 addressed envelopes and had no responses.

MR. KANE: Nobody cares. Any easements running through?

MR. BYWATER: No.

MR. KANE: In your neighborhood, your garage is going to come four feet further than the front of your house, is that going to place the garage closer to the road than other homes in your neighborhood?

MR. BYWATER: No.

MR. KANE: You have other homes that are a little closer to the road than yours?

MR. BYWATER: Actually in the new development around the corner there's homes even 25 feet from the road and less.

MR. KRIEGER: But it's not going to visually appear to be closer than your neighbors?

MR. BYWATER: No.

MR. BABCOCK: Mr. Chairman, the garage is not closer to the street than his house, it's just the--

MR. BYWATER: That's a preliminary, I did change that since the porch I was getting the variance for I wanted to keep the garage the same.

MR. BABCOCK: Okay.

MR. KANE: If the addition is allowed, will the home seem similar to other homes in the neighborhood as far as size?

MR. BYWATER: Yes.

MR. KANE: Any other questions?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: Make a motion we grant William Bywater the requested 15 foot front yard setback for proposed front side addition at 115 Birch Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

DONALD DEMATTEO (04-35)

Mr. and Mrs. DeMatteo appeared before the board for this proposal.

MR. KANE: Request for 12 ft. 9 inches for rear yard setback for proposed 16 ft. x 16 ft. deck at 2816 Cherry Tree Way in an R-3 zone.

MR. DEMATTEO: I don't know if you need the plans, I haven't submitted them to the building department yet just so you get an idea.

MRS. DEMATTEO: It hasn't changed.

MR. KANE: I think we'll be fine, thank you. Okay, let's see, you want to build a 16 x 16 rear deck?

MR. DEMATTEO: Yes.

MR. KANE: And the deck is not oversized to other decks in your neighborhood?

MR. DEMATTEO: No.

MR. KANE: Cutting down of trees or substantial vegetation?

MR. DEMATTEO: No.

MR. KANE: Create any water hazards or runoffs?

MR. DEMATTEO: No.

MR. KANE: Any easements from where the deck is going to be?

MR. DEMATTEO: No.

MR. KANE: Without the deck there, walking out your

rear door would be a little bit of a safety issue?

MR. DEMATTEO: Yes.

MR. KANE: So 12 foot 9 inch rear setback basically any deck you're trying to put you're going to need some kind of a variance?

MR. BABCOCK: It would be allowed about a three foot deck probably.

MR. KANE: At this point, I will ask if there's anybody in the audience for this particular hearing? And there is not, so we will open and close the public hearing portion. Myra, how many mailings?

MS. MASON: On the 17th of May, I mailed out 35 addressed envelopes with no responses.

MR. KANE: Any other questions, guys?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we approve Donald DeMatteo's request for 12 foot 9 inch rear yard setback for proposed 16 x 16 deck at 2816 Cherry Tree Way.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PUBLIC HEARING CONTINUATION:

MIKE CASSISI (03-63)

Mr. Michael Cassisi and Mr. Mickey Cassisi appeared before the board for this proposal.

MR. KANE: Request for 7,353 ft. minimum lot area and 10 ft. rear yard setback for proposed house on Vascello Road in an R-4 zone. Is there anybody in the audience for this particular hearing? We're going to bring a pad just to write your name and address on so we have it for the stenographer, okay, and when I open it up to the public, then you'll be allowed to speak at that point.

MR. MICHAEL CASSISI: So you have the survey but you have it in a, I guess there's four copies that are there so you can pull them off. So basically a couple months, we're back here and we were asked to get additional information for the board and what we did is we listed those in four items so there's a topo map which I will let my brother go through on this. It basically has the placement of the neighboring wells specified so many feet and the slopes and the sewer easements, if you want to take each item we can go through each item and go back.

MR. KANE: Why don't you go through all of them and we'll go back?

MR. MICHAEL CASSISI: Number 2, same drawing, has the survey and driveway placement on the survey itself. Number 3 has the driveway placement approval that the superintendent of the highways was brought out, shown where the driveway would be placed and there was an approval letter that's submitted within the context of the packet. And the last one has a floor plan of the proposed building, I think you saw it last time, we made sure it's included again.

MR. KANE: Let's go right to the meat of the matter and talk about wells, I know why you're all here.

MR. MICKEY CASSISI: The wells, there's nothing you can really do about knowing where the water is underground, obviously, but these, all these wells are more than 200 feet away from the proposed well.

MR. KANE: Which your proposed well is right here?

MR. MICKEY CASSISI: Yes, the only one that they didn't get was the one across the street, this house over here, actually, those wells are a lot further apart than like a normal subdivision or a development.

MR. KANE: Okay, let's get right to it, let's go right to the public, let them speak. We'll open up the public portion of the meeting, please state your name, say what you have got to say.

MR. HYATT: John Hyatt, I just have a question with the back yard property line, the side property line there's a dotted line and then there's a solid line says see note number 3.

MR. KANE: Can you address this for the gentleman right there, that would be he's talking about dotted line and this heavy line with that going right across?

MR. MICKEY CASSISI: That dotted line looks like a reference line, I believe that's your building envelope for the--

MR. HYATT: Yeah, it says number 3 that somehow, someplace, somewhere that this is a property line, I just don't want to lost that 7 feet of my property so your 18 feet 7 inches is going from that heavy line?

MR. MICKEY CASSISI: Yeah.

MR. BABCOCK: The heavy line is his property line.

MR. HYATT: So the--

MR. BABCOCK: Well, the dotted line apparently two different surveyors had two different pieces of information and this surveyor's saying that this is filed at the Orange County Clerk's office and a deed and he's saying the deed--do you have a survey of your property, does it show?

MRS. HYATT: It doesn't show that on our survey, no, and we have been in the house for 18 years and it never has so that now all of a sudden this is showing up.

MR. BABCOCK: The dotted line represents that there used to be a property line there, so one surveyor some years ago must of thought that the property line went straight back and this surveyor's saying it doesn't.

MR. KANE: This is the current one?

MR. BABCOCK: This is the one we're looking at tonight.

MR. KANE: And the current survey, is that showing--

MRS. HYATT: It's actually showing both, that's why we're concerned cause it's showing both on their survey.

MR. KANE: He's showing an old surveyor's.

MRS. HYATT: Our survey does not show that.

MR. MICKEY CASSISI: The new precedes the old one.

MR. KANE: Well, it's noted here in the public meeting so you did bring up the concern, it is on the record that you have a vested interest in that.

MR. HYATT: I want to make sure that the newer survey takes precedence over an old one.

MR. KANE: It should as far as I know.

MR. MC DONALD: This is the map filed in Orange County?

MR. HYATT: Both of them are.

MR. KANE: Again, it's on the public record that you had a concern, you have not given up your rights in any way to pursue that.

MRS. HYATT: My other question, what's the requirement, what's the town requirement for the house? How many feet does it have to be from the property line over?

MR. BABCOCK: Has to be 15 feet and they're proposing 18.8 feet.

MR. HYATT: It says 15, 30.

MR. BABCOCK: 15 and 30 total so it's 15 and 15.

MR. KANE: Do you understand?

MRS. HYATT: You do have a well in the back, we actually had to drill a second well so we do have two wells, we have one in the front and a well in the back as well.

MR. MICKEY CASSISI: He didn't mark the one in the front, I guess he didn't see that.

MR. HYATT: We added another one since we owned the property.

MR. BABCOCK: Once they found one well, why would they look for another one?

MRS. HYATT: We have two wells because of the water problem being Beaver Dam Lake and so many other places it really, really is a concern, water is a problem which I know you're very well aware of, I need that to be on record, we're concerned about water in our area.

MR. KANE: Okay, anything else? At this point, we'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 17th of May, I didn't have any mailings but I did put a notice in The Sentinel that this was going to be a continuation.

MR. REIS: Can you tell us how many there were for the first one?

MS. MASON: Prior to that, I had 33 on the 16th of February I mailed out 33 envelopes.

MR. KANE: Any easements going through the property?

MR. MICKEY CASSISI: Yes, there's an easement, sewer easement.

MR. KANE: And the house is going to be nowhere near that?

MR. MICKEY CASSISI: No, large map shows it.

MR. BABCOCK: Just for the record, I met out there with the highway department in reference to the drain pipes, there was some question at the public hearing about the drainage at the bottom of the hill, they felt that sometimes overtops the road and also the location of the driveway and he's approved both of those, he has no problem with that.

MR. KANE: The highway super?

MR. BABCOCK: Yes.

MR. KANE: In the building of this house, do you feel like you're going to create any water hazards or runoffs?

MR. MICKEY CASSISI: Well, there will be a natural runoff, you know, the footing drain has to drain out which is not a problem because there's plenty of pitch, I mean, there's going to be plenty of place for it to run without causing any problems.

MR. KANE: Any other questions, guys?

MR. REIS: I don't have any questions.

MR. RIVERA: Anticipate any water hazards?

MR. MICKEY CASSISI: No, I don't, no.

MR. MC DONALD: Accept a motion?

MR. KRIEGER: Mike, what is the minimum lot, what's the lot area that's called for in the statute here?

MR. BABCOCK: 21,790.

MR. KANE: They're are providing 15,3.

MR. BABCOCK: They're asking for a variance of 7,353.

MR. KANE: Mike, well, yeah, on the deck there's a 14 x 10 proposed deck, says 38.52 deck.

MR. BABCOCK: That's the rear yard, he's asking for a 10 foot rear yard.

MR. KANE: He's asking for the 10 foot rear yard?

MR. BABCOCK: Yes.

MR. KRIEGER: The question is does that include the proposed deck?

MR. BABCOCK: Yes, that's the reason for the rear yard setback.

MR. KANE: Is to put a deck on?

MR. BABCOCK: That's correct.

MR. KRIEGER: If it weren't for the deck, he wouldn't need it?

MR. BABCOCK: That's correct.

MR. KANE: Okay, I'll accept a motion.

MR. MC DONALD: I make a motion we grant Mr. Mike Cassisi his request for the 7,353 foot minimum lot area, 10 foot rear yard setback for proposed house on Vascello Road in an R-4 zone.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	NO

STRATEGIC HOMES (04-29)

Mr. Jerry Sabini appeared before the board for this proposal.

MR. KANE: Request for 1,790 sq. ft. lot area for proposed single family dwelling on Sycamore Drive in an R-4 zone.

MR. SABINI: Jerry Sabini, Strategic Homes, I'm asking for 1,790 square feet.

MR. KANE: Give me one second. Mike, would you do the honors with the names on the pad please? Okay, sir?

MR. SABINI: I'm Jerry Sabini, Strategic Homes requesting 1,790 square feet of space we need which is like 2 percent. The original plan showed the single family home with an attached garage and then I knocked the garage off and put the garage underneath the house so it's half basement, half garage, made the house smaller.

MR. KANE: What's the house size now?

MR. SABINI: 2,300 square feet house, total square footage.

MR. KANE: That's before you take it off?

MR. SABINI: 2,300 but the garage was attached 22 x 20 so I chopped it off and put it underneath to make the house smaller cause it was feedback that the house was too big for the area.

MR. BABCOCK: Mr. Chairman, when he says 2,300 square feet, that's what you call livable floor area.

MR. SABINI: Correct.

MR. KRIEGER: What are the outside dimensions of the building?

MR. BABCOCK: That's got, we calculate our building permit fees based on square footage, so when somebody is coming here and they say 2,300 and you condition the variance on 2,300, when I do the calculation, it's going to be 5,000, you know, when I, cause I do the garage floor area, I do the deck area, I do everything so I don't want you to get locked into what they'll say 3,200 square feet so I think you should just do outside dimensions of the house.

MR. SABINI: The box is 38 in the front by 30 deep, that's the footprint, 38 x 30, it's 4 bedrooms, 2 1/2 bathrooms, my well driller couldn't make it but he wrote me a letter, do you want me to read it for the record? His name is Terry Kendrick with Kendrick Well Drilling, says to Whom it May Concern: I have been drilling water wells for 25 years in Orange County and my experience is drilling these wells I found that drilling a new well does not deplete existing wells around, the wells produce more than is needed for one family home. To my knowledge, I never caused any other well to stop producing water so the drying up or reducing water production of surrounding water wells should not be a concern. Terry Kendrick.

MR. KANE: We'll enter that into the record.

MR. SABINI: I built houses on Toleman that are bigger than this and 4 bedroom, 2 1/2 baths and I sold it to a single guy like who's hardly ever at the house, so it's tough to say how much water consumption is going to be used.

MR. KANE: You can't gear that though to use or highest--

MR. SABINI: This isn't a, I'm speaking, this house,

you know, or a couple that's married that has no kids could buy this house.

MR. KANE: But you have to base it on 4 bedrooms, 2 1/2 baths being used.

MR. SABINI: Right. I'm only asking for under 1,800 square feet of lot area which is like 2 percent, it's not a big area we're talking about and this is Nick Taldone, his parents own the building lot that I'm buying subject to getting the variance.

MR. TALDONE: Yeah, Nicholas Taldone, my parents, I live in Tampa, Florida, my parents live in Las Vegas, they're, my mom and dad are respectively 78 and 79, not in good health, so they have asked me to appear here tonight, if they were here, they'd tell you the following. I took a ride just before the meeting, first of all, I just met Mr. Sabini tonight, I'm not in the building trade or anything, I just took a ride up to the area and I, just eyeballing, I noticed the following. Number 1, it's not the biggest home what he has proposed is not going to be the biggest home in the neighborhood. Number 2, I noticed a lot of other homes where that had built extensions on so this to me cause I know when I was a kid, came up to this area, my parents were thinking of having a second house up here, we grew up in the Bronx, never happened, but I can tell you 40 years ago it was a bungalow community up by the lake there and people had their second homes up there. Now, it's an all year round place, just from, again, I'm eyeballing, I'm not, I don't live in the area and I can just tell you from taking a ride up there, the variance that Mr. Sabini is seeking is a minimal variance. I think it's less than 2 percent of the total square feet of the property. My parents didn't walk in this situation in 1966 when they bought the property, they didn't create any of this, that's why we're here tonight. When they bought, as I understand it, when they bought the property in 1966 this house

could have been built on it, okay, so my parents didn't create the need for the variance, they simply bought the property in 1966 paying taxes on it since 1966.

MR. SABINI: I think you could have built four single family homes in 1966 on this lot, couldn't you, isn't that true?

MR. KANE: Excuse me, if there's going to be any interruptions, I will clear the room. We have been through this before, you're not going to speak out. You'll get your chance to speak but we're not going to interrupt, it's not high school. Okay? Thank you.

MR. SABINI: In 1966, couldn't you build four single family homes at one point in time cause they were 25 foot? Do you have a copy of that site plan that shows 25 foot wide?

MR. BABCOCK: They are four 25 feet lots together.

MR. SABINI: It's got municipal sewer, that's why the lot's good because we don't need the septic area. At one point in time, I think four homes could have been built there so there would have been four wells.

MR. RIVERA: What size homes?

MR. SABINI: Well, still would have been four wells even if the homes were a lot smaller, still had two, you know, husband, wife, two kids, water consumption you can see, I don't know if you're familiar with it?

MR. TALDONE: I just have a couple other comments. My parents told me before they moved from the Bronx to Las Vegas around '99-2000 time period they sent some letters to whatever the numbers were for adjoining land owners offering to sell their property, they didn't get any response in that period of time. I haven't heard from what I understand from the last time, again, I

wasn't present, I haven't heard any alternatives being offered by any of the objecting neighborhood individuals. My understanding is that the board has granted variances for substandard lots before in the Beaver Dam Lake area. Anything is possible, seems to me the objection here has to do with theoretical harm. And I would submit to the board that anything is possible, tonight we could have a storm and lightening could strike a very tall, I know there's some tall trees on my parents' property, lightening can strike a tall tree and it could fall on one of the neighbor's houses and damage the property. Anything is possible. What seems to be to me the board needs evidence of certainty before they should deny a variance on the grounds that there may be some theoretical harm to the wells of the neighbors. Thank you very much.

MR. KANE: Thank you, sir.

MR. SABINI: Also, I believe, I think in 2003 there was 26,000 homes built in Orange County and I think 15,000 of those homes or I think 5 or 10,000 of those homes were built out over the water district, so wells are being drilled all over Orange County.

MR. KANE: Okay.

MR. SABINI: Thank you.

MR. REIS: Just for the record, I'd like to recuse myself from this process from the vote but that allows me to speak, right, Andy, I can speak but I can't vote on it or not?

MR. KRIEGER: Better that you don't.

MR. REIS: Okay, no problem.

MR. RIVERA: I would like to disclose that I am affiliated with Reis Realtors, I am in no way connected

to this transaction and gain no monetary value.

MR. KANE: You feel you can vote on it?

MR. RIVERA: I can be objective.

MR. KANE: At this point, I'm going to be fair, I'm going to open it up again to the public, short statements, please, do not repeat yourself. I don't want repetitions here for an hour. Say what you have to say, present any facts that you have to and please speak clearly, give your name and address so the stenographer can pick it up. Who wants to speak first?

MS. QUARTUCCIO: My name is Debra Quartuccio, I live at 340 Chestnut Avenue. I have, I don't know if you would take this, it's a letter from one of the neighbors, her name is Emily Corozza, she lives at 314 Chestnut Avenue, she came to the other two meetings, she couldn't make it tonight cause her husband's ill, she wrote you a note.

MR. KANE: I'll read that when you're done.

MS. QUARTUCCIO: I just have a few key points. Yes, the Taldones have owned property for 38 years, in the 38 years that they have owned it, they have never sought to build on this property, they have never taken any steps to build on it. In 1966, the zoning laws stated that you need 15,000 square foot minimal property because there was well and septic on the property. Throughout the years, the zoning laws have changed but the lot's never conformed until last year and still even last year when they joined the lots together they still don't conform to build a house or whatever it is, you know, to put on it. And the zoning also they'll be even further away come October because the zoning law is changing to an acre. They don't intend to live there, it's purely for profit, they're going to get this variance so then they're going to

sell it to Strategic Homes and then he's going to flip it, you know, to somebody else. Now, we live there and we know what the water problems is, the Taldones don't know what the water problem is. They never suffered the water problem, had they built a house in 1966, maybe they would be a little more sympathetic to the situation out there right now but we don't expect them to know what the situation is cause they haven't lived it. In my house, we practice water conservation, we had a few people over last Sunday and I have to shut my pump off because I ran out of water and that's just with a few people. Now, if I have to act like the water police in my house and the quality of my life is dropped, I mean, I'm used to it but, and I live there so I'm not going to go away and like I said, I have my husband and my kids are used to it, you can't do more than two loads of laundry I can't do a day, I'm used to the pattern I have to live, it might have to change when they live there. Yes, it is speculation but I can see it changing because I've seen over the years that my water changed when I first moved in, I could do whatever I wanted to do I could do, didn't have to worry about losing water. The first time I lost my water, I had no idea what was going on. I feel this is a self-created hardship for them and I feel that it would have an adverse impact on current or existing homes in the area that you see enough people are speaking out about it cause we all feel the impact on it and I hope because of the timing in October that you guys don't feel pressure to give them a variance. And there was one other thing.

MR. KANE: We're not elected.

MS. QUARTUCCIO: No cause you're elected officials and you're--

MR. KANE: We get no pressure from anybody.

MS. QUARTUCCIO: You're elected officials and you're

supposed to be watching out for our quality of life of the Town of New Windsor residents and they have no idea what our quality of life, how it's going to be affected and it will be affected and we do have somebody, an expert here who will submit some information on that too.

MR. KANE: Thank you. Next?

MR. FREY: Hi, Mike Frey, Hudson Valley Drilling, we have drilled wells in the area for a long time. There is a water problem in Beaver Dam and the problem is the houses are too close together and the ground water has been depleted over the years. Typically, every year we deepen a couple of wells whoever in the neighborhood has the shallowest well we make it deeper. So most of the problems that we have until now we have been able to solve by deepening the wells but anybody has their well deepened it's a tremendous expense. So there is a big hardship involved. I don't know if building one more house will make a big difference. The idea is a four bedroom house that seems extreme, if this whole case is all about water then I'd like to say that the board members should sit down with professionals in the industry, ground water hydrologists have a meeting and discuss it, surveys and so forth can be done to really monitor the situation, but basically we're taking too much water out of the ground. I would recommend that one particular area of Beaver Dam there's an area in Monroe where we have a similar problem, not every well driller knows about that. As a professional I'd recommend to discourage building, any further building in the Beaver Dam area and recommend water rationing for all the residents, I don't know, on a voluntary basis or tax deduction or something, maybe the problem will kind of go away, we don't know that without an in-depth study, but the hardship that these people feel it's real and if you have your well deepened, you're going to see that it's very expensive. The water out there, because we have sewers there and also like the

runoff from your roofs and all the blacktop and the storm drains, they all take water away from the area, it all runs down into the sewer plant instead of soaking into the ground so a natural recharge is a situation where the rain water leeches into the ground, replenishes the underground aquifer so when you build a lot of houses and put up blacktop, swimming pools and everything that collects water and runs it down to the sewer plant, that's taking water away from the area so everything in Beaver Dam, we have houses very close so we don't get a lot of natural recharge and that's how that works. It's interesting for geologists, it's a real interesting area, we can talk about this for hours, there's a big lake and it's full of water but underneath the lake there's clay dirt and water doesn't percolate through the clay dirt very fast so very interesting actually we drilled a hole in the lake to try and drain it, it would fill up everybody's wells. One of my ideas from a long while ago we should have ejection wells where we actually pump water out of the lake through a filtration plant, pump it into the ground but that's a situation when I discussed that with our professionals they're like no, the aquifer is not conducive to that, this would not work, that would not work. But there's a lot of science to this whole thing, if you talk about pipe line water, you're talking about millions of dollars. These people have, the people deepened theirs past 500 feet, it's a tremendous expense, but doesn't compare what it costs to put in pipe line water. So where do I stand? I sympathize with both sides but there's a real problem and aside from this particular case, the Town should still sit down and discuss it at some point and have a plan.

MR. KANE: Thank you.

MS. DRYER: My name is Tammy Dryer, I live at 336 Sycamore Drive. I want to let you know I talked to Mr. Taldone personally on the phone and my take was that

this is all monetary to him and his parents, they never lived here, they don't want to live here, they don't care about the community that I have lived in for 31 years, that's not even crossed their mind and that's just from my conversation with him. Zoning laws are made for a reason and they are to protect your current residents, like I said, most of us have been in the area for long, long time, I have never left New Windsor, born and bred here. I am not going anywhere. I live in this community, love it, but there's a water problem and I won't go into it, you know it. So those zoning laws are made to protect me. I'm here, I own. Let's say our town water was in a crisis, the water supply that you give to people who have town water, there was some type of crisis, would you be giving out new construction permits? We're in that crisis every day, we live it every day. I don't have the luxury of having town water. And as of now, they have no experts that have given any real evidence that it is not going to affect us, that we're not going to have to drill deeper, not going to have to spend thousands of dollars. If they can guarantee that it's not going to cost me to drill deeper, I'll walk out of the room but it is going to cost me a lot of money. And being a single income in a very expensive market right now, it's difficult, extremely difficult and this isn't a deck or something to that effect where it's not going to affect the people around, it's a well and it's going to affect us. With two and a half baths, this is a lot of water.

MR. KANE: Thank you. Next?

MR. KASELLO: Eugene Kasello, 344 Chestnut. All I know is when I moved in, we had Joe Congelossi, and they checked my static water level at that time was about 100 feet down, since they put five homes in, I'm down 60 feet more just with the five homes so it did affect actually the water level where I live.

MR. KANE: Thank you.

MR. SOTO: Audie Soto, I live at 350 Sycamore Drive. I'm sure this gentleman met Mr. Grove back in the days, I bought his house just basically Mr. Grove before he did sell the house he did request to purchase the property from this gentleman or the family of this gentleman, he did send a return receipt which I acknowledge that they did send a letter, I never got a letter requesting to buy it, that's something I guess me and Tammy would have probably got together and buy for the water purpose. I had trouble with my well a year ago, it's, I think there's something that I think that building a house and I don't know anybody who would buy a four bedroom house and not have kids or at least plan to have kids and two bathrooms and a half, that's a lot and we conserve water as well in my household and I took a hit the last time for my well, it's going to be tough and I'm also a one income person and I just, I think if we're having a problem with the well, I think maybe there's something that the Town of New Windsor should look into maybe piping water in or something, we're really hurting. That's pretty much it.

MR. MANNINA: Dominick Mannina (phonetic), 362 Chestnut Avenue. I have lived there now for just going on 18 years, close to 19 years. When I bought my house, my house was, I had my well was 205 feet deep. I am now 500 feet deep, had to change my well and all the piping to my house cause my water was stopping every week, I was having no water at all, so I went down 500 feet, I went for the expense myself. Since living there I see houses being built, a house will be built right down the road three houses away, the guy's well is going dry after that house is built, I've seen them have to come in and re-dig their wells and I have seen that in that whole neighborhood since I'm living there for 18 years, okay, and you probably check back and check with the people in the area and you'll find the same thing every

time a house goes up, somebody's well goes dry.

MR. DRYER: Okay, good evening, I'm Darryl Dryer from Silver, Forrester, Schissano, Lesser & Dreyer, 3250 Route 9W, I'm an attorney appearing on behalf of Tammy Dryer at this point in time, I'm sure my comments will be relevant for the other residents of the area. Just a few things I want to comment on the collective thoughts of the residents and also few other items I did notice that you have, Mr. Chairman, accepted a copy of a letter from the builder, from a well driller. Your Honor, Mr. Chairman, I would respectfully submit that that constitutes rank hearsay. There is absolutely no way to test that statement. There is no way for an attorney to come in and challenge that statement. There is no way for me to cross examine that person on his thoughts. I can't examine the author of that document to ask him what tests he's done in the area, what anecdotal evidence he has, how many wells he's drilled in the area, how many wells he's had to deepen. I would submit that you, Mr. Chairman, and the rest of the committee should completely disregard any statements contained within that document or should give it its due weight which would be I respectfully submit little to no weight as there is no way to challenge, and I believe Mr. Krieger would agree that that in any court of law would be substantial hearsay because we're unable to challenge. The building also raises an issue about evidence of certainty that the homeowners are not coming to you with evidence that somehow that house will affect their water supply. Well, I respectfully submit that the burden should be theirs to come in and prove since they're asking for the variance, since they're asking not for a 2 percent, a 10%, if you do the math, it's almost 10%, they have a 20,000 square foot lot, they're asking for almost an 1,800 square foot variance, that's almost to the penny 9%, it's not 2% or less than 2%, it's quite a substantial amount. And their repeated reference to 2% I respectfully submit is improper because it's closer

to 9%, if you do the math. But the evidence of certainty should not be the homeowners' burden, it should be the burden to the builder to show you, show that their lot with 4 bedrooms and 2 1/2 baths is not going to affect the neighborhood. And on the flip side of all this, there's no evidence from any geological experts from the homeowners, you've heard plenty of anecdotal evidence from the members of the community, from the guy who just stood up and said his water supply went from 100 feet deep to 160 feet deep after five homes went in the area, that's significant, that's 12 feet per home deep. You've heard other residents say they had to go from 250 to 500, the anecdotal evidence is very significant, I would respectfully submit. There's one other comment I heard that I'd like to point out this is a self-created hardship, I do feel for these people, I'm sorry Mr. Taldone, they have owned the property since 1966, they have had many years to improve the land, they have had many years to sell it when it met code, they have had many years to improve the land or to move up here or to build a home and at this point in time, the only reason that they want to ask this committee and this board for a variance is so they can sell it, the proof of that is they brought in the builder, the building is here for the variance, not the homeowners, it's the builder's variance, it's the builder's plans, they have no reason to want to ask this board for relief of being 9% of being significantly small other than money, that's a money issue to them. And if the board is going to consider that it is a money issue to them, this is, that's the only issue, it's a money issue to every person sitting in this room also who are residents of this Town and it's a significant money issue and whatever money the Taldones stand to lose, if you don't grant the variance, the people who sit on this side of the room stand to lose collectively a lot more for every single person who is going to have to drill a well deeper. And so the, if this comes down to a straight money issue, the people on this side of the

room have a lot more to lose than the Taldones. Their land is still worth something, they can market it in some way. Mr. Taldone, the gentleman who appears here said that the residents have proposed no alternatives, it's not the burden of the residents to propose the alternatives, they built their houses when they did meet the code and the building code is going up in a few short months to double so instead of this 2% that they're claiming which is really 9% in a short period of time, it's going to be 60, 70% they're going to be asking for or more. This isn't about sympathy, somebody said I'm sympathetic to both sides, this isn't about that, it's about the rule of law, there are zoning laws for a reason and the reason is to protect the people who already live and have paid good money for the homes in their area and if the land cannot accept another home, then this board should not approve another home going on a lot that does not conform. Thank you.

MR. KANE: Thank you. We have been here, before it gets repetitious.

MS. ARENA: Debbie Arena, I live at 354 Chestnut and I've had a well problem, it did cost me money and I owned the property two years before I built on it and I had to meet all the codes and laws in order for me to put my house there. So I don't know why it changes for somebody else just cause they are, and because we're still all having well problems, you have to realize where they're building that towards the top of the Chestnut hill that's towards the top, it's not on the bottom where like the well guy said the water will replenish, it's all running downhill, our water all into the sewers so we're really not replenishing our water supply at all because it's on the top of the hill, not on the bottom where all the little summer homes were, the bungalows were, they have the town water, we're at the top. So I think that's one of the reasons why our water supply is being depleted also

and, you know, if it's different areas around the lake, not that the same level up on the lake, you know, I'm sure the table of water is different but we're on the top and because we're there it doesn't matter, you're at the top, it's both sides of the lake, both sides of the lake, Mecca Park there really isn't a problem and over near Route 94 there really isn't a problem, but right in the middle on the Salisbury Mills side of the lake, Valley View Drive, up in there those people they deepen their wells and on the other side of the lake where Chestnut heads up to the Town park it's that area, it's one little area all in between there, it doesn't matter if you're at the top of the hill or the bottom, there's or over 100 feet of dirt that the water has to traverse but there's a distinguished area that has a problem.

MR. KANE: Thank you.

MR. TALDONE: May I respond?

MR. KANE: Yes.

MR. TALDONE: To make one thing clear, it is about money, it's about money, theoretical money to them, speculative money to them, it's about real money to my parents. I did, my parents did save the letter from 1986, there was a letter in 1986 and believe it, or not 19, in the 1980s my parents were thinking of retiring up here, they chose not to, they wrote letters and 15 years later, they didn't get any response. I'm an attorney also, I didn't want, you know, to what extent you folks wanted to get into legalities, but if you want to talk about legalities, you don't have any hard evidence before you on either side, you don't, it's total, but one thing you have is certainty on this side and speculation on that side. The statute changed, used to be prior to the early '90s the law in New York changed, I'm admitted in New York as well as three other states, but the law in New York changed prior to

the early '90s, I'm not telling you anything you don't know but burden of proof was all over the place prior to the 1990's state statute now says you consider, weigh the benefit to the applicant against the detriment to the objectors and then consider all the factors that we have gone over, doesn't talk about a burden of proof, but we have established that it's a minimal variance, whether it's 2% or 9%, it's still a minimal variance. You folks just gave a variance that was much much stronger, substantial variance a minute ago. And I've heard now various stories and I'd like to hear from you folks, I think, still think when my parents, maybe this gentleman can establish it when my parents bought the place in 1966, they could have built the home that's proposed by the builder right now, is that true or not true? I'm asking this gentleman, not you.

MR. BABCOCK: As far as the home, there's no issue with the home, the size of the home, even with the garage on it before, he took the garage off, meets the setbacks for that lot.

MR. TALDONE: Could it have been built in 1966?

MR. BABCOCK: As far as the home, yes, I mean, as far as lot areas, you're asking me, I really don't know that.

MR. TALDONE: So there's no proof one way or the other, you don't know if the zoning law's changed since 1966?

MR. BABCOCK: Yeah, definitely.

MR. TALDONE: In the direction of requiring a larger lot size?

MR. BABCOCK: That's correct.

MR. TALDONE: So the board can take an inference then

that the laws have changed over the years, always in the direction of requiring a larger lot size. Again, I don't believe my parents went into this thing self-creating it, certainly in 1966, there has been no evidence now and rather there's an inference that it is not, that the inference should be that my parents did not create this need for a variance back in 1966 and certainly we haven't heard anything to the contrary. They were thinking about retiring here, they didn't choose to retire here, haven't heard any alternatives to this except to leave the land as it is, which is no alternative as far as I don't believe that that's the way that the zoning laws were designed to work. Thank you.

MR. KANE: I will let you speak.

MR. QUARTUCCIO: James Quartuccio, 340 Chestnut Avenue. These are the zoning laws back in 1966 and 1970, I believe also and those lots never conformed to the building specs so they would have needed a variance for each lot, they didn't conform until they were put together and they don't conform now according to the lot, so you guys can make copies of this if you need to.

MR. KANE: They don't conform to the size that he's trying to build right now, if they went with a smaller home, they can build it.

MR. QUARTUCCIO: In 1965 and 1970 they didn't conform.

MR. KANE: Honestly not conformed, whether they conformed in 1966, it has no bearing on today's decision.

MR. DREYER: May I be heard?

MR. KANE: No, we're done.

MR. DREYER: You allowed him.

MR. KANE: We're not a court of law, we're not going to debate lawyers going back and forth, I'm sure you both have your opinions.

MR. DREYER: I want to respond to his argument, I don't want to give an opinion, two brief points.

MR. KANE: One response from you, that's it, then we're done. We've done this three times people, we keep saying the same thing.

MR. DREYER: I'll be extremely brief. Number one, the harm--

MR. KANE: Let me put it this way, after you're done speaking, the public portion of the hearing is closed. Thank you.

MR. DREYER: Number 1, the residents on this side are not proposing that they have speculative harm, Mr. Taldone keeps making reference to the harm being speculative over here, it's clearly not speculative, their wells will be affected, they will be substantially harmed with substantial cost to deepen their wells. And number 2, their reference to the fact that you just gave a variance to somebody else for a larger request should have absolutely no bearing on this request because the situations are completely different.

MR. KANE: Every variance is taken on its own merit, there are no precedents set with any decision that we make.

MR. DREYER: Thank you.

MR. KANE: You're welcome. Public portion is closed and back to the board. Any other questions?

MR. RIVERA: I don't know, is there a possibility of a happy medium here where the individuals are concerned about the wells, perhaps purchase, I don't know, purchase the property to be sold?

MR. KANE: I'm not sure that's anything that we can consider talking about at this point right here, that's something dependent on how the decisions that they can talk outside of this particular room. Any questions?

MR. MC DONALD: No, I'm still thinking. I don't, you know, I feel right now as a vote I can't in all honesty vote either way, I can't say yea and I can't say nay. I can see both sides of it and I'm looking at it objectively, yes, they may lose water, he's going to, they're going to lose money, they've had this property for a long time and they should have the right to sell it when they want to sell it. That's my opinion. You can't guarantee that you're going to lose, you have lot water, but this is a thing, I don't think the zoning board is involved in, this is a town problem, if they're losing water up there, I think the Town should get involved in it and solve some kind of a problem, they're going to have water, there's got to be a medium somewhere, I don't think we're going to solve this problem, end up with people that are going to be unhappy either way we do it. And couple of statements that were made over there, ground water, you made the statement about the ground water being down the sewer treatment plant, doesn't go there, ground water is not treated at the sewage treatment plant, we don't spend that kind of money in New Windsor processing rain water. That's not a valid point on my part. The part of it regenerating the water table, you as a group and they, these two and myself, anybody on this board can't guarantee that your water table is going to, you can have a torrential downpour tonight, probably won't have any affect on your water table at all. So it's, this is where I'm at, I just don't, I can see both sides of

it, I can sympathize, I wouldn't want a 500 feet well, but there's no guarantee and nothing, he says that if he builds this house, you're going to have to put a 500 foot well, you haven't proven that to me.

MR. KANE: I have a letter to the Zoning Board of Appeals, Town of New Windsor from Coccozza. "Dear Sirs: I regret that I am unable to attend the meeting tonight in regards to the property within 500 feet of my home. At a previous meeting, I stated my objections to new homes in this area. My reason was that three years ago, I had to replace my well at a total cost over \$11,000. Five neighbors on the other side of the road also lost their well water within the same week. That is a serious problem and should not be disregarded. Yours Truly, Emily Coccozza." And we entered that into the record. Okay, gentlemen, ready or not, its decision time. Can I have a motion? Mike is recused.

MR. MC DONALD: Motions have to be in the affirmative?

MR. KANE: That's correct.

MR. MC DONALD: Make a motion that we grant the Strategic Home's request for their variance.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	NO
MR. MC DONALD	NO
MR. KANE	NO

FORMAL DECISIONS:

04-05 EDWARD NIXON
04-02 CLASSIC HOME BUILDERS, LLC
04-06 GARY AND THERESA LAMICA
04-04 CENTRAL HUDSON GAS & ELECTRIC CORP.
04-09 MOSHIL, INC.
04-07 FASSBENDER
04-11 WELCH
04-13 HECHT
04-10 STRATEGIC HOMES, LLC

MR. MC DONALD: Make a motion that we approve the decisions as noted above.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. REIS: Motion to adjourn.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE

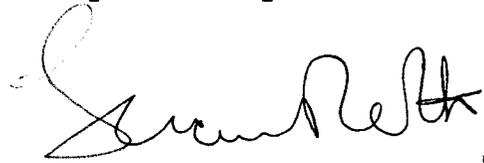
June 14, 2004

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MR. KANE

AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read "Frances Roth".

Frances Roth
Stenographer

7/6/04