

ZONING BOARD OF APPEALS

TOWN OF LEWISBORO

MINUTES

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, February 25, 2009 at 8:15 p.m., at the Town House, 11 Main Street, South Salem, New York 10590

Board Members: Present: Geoffrey Egginton
Chairman
Carolyn Mandelker
Thomas Casper
Robin Price, Jr.
Jason Krellenstein

Absent: None

Also in Attendance: Alex Posadas
ZBA Secretary

The Meeting was called to order at 8:15 p.m. Chairman Egginton introduced himself and the Board members; Mr. Krellenstein, Mr. Price, Mr. Casper and Ms. Mandelker.

Chairman Egginton announced that in the preparation of a Resolution, a decision is drafted from the minutes of all Public Hearings on a particular application; therefore, it takes approximately thirty to forty-five days to prepare a Resolution.

Chairman Egginton announced that the next ZBA Meeting will be Wednesday, March 25, 2009 with a site walk scheduled for the morning of Saturday, March 21, 2009. He stated that the site walk is part of the public hearing and all interested parties may attend.

Review and adoption of the Minutes of the ZBA meeting of January 28th 2009 were held. Chairman Egginton identified a typo on page 20, the first paragraph. Chairman Egginton moved to approve the minutes as amended. The motion was seconded by Mr. Krellenstein; In favor: Mr. Krellenstein, Mr. Casper, Mr. Price, Ms. Mandelker and Chairman Egginton; Absent: None; Abstained: None;

I. DECISIONS- (Tentative)

CAL. NO. 08-07-BZ Wendy Gennimi, 19 Lower Salem Road, South Salem, NY 10590

Application for a variance of Article III, § 220-12E (b) (d) of the Zoning Ordinance in the matter of existing fencing (actual 151 feet) which is longer than 100 feet in length on the street than permitted in an R-1A, One Acre Residential District. Violation dated November 14, 2006.

The property is located on the east side of Lower Salem Road, designated on the Tax Map as Sheet 32C, Block 10819, Lot 15, in an R-1A, One-Acre Residential District. No one was present to represent the applicant.

Chairman Egginton stated that this matter will be adjourned until such time that litigation in the Federal Court in White Plains involving the applicant and the Town is resolved.
CASE ADJOURNED.

CAL. NO. 25-07-SP Douglas K. Paulding, 20 Wakeman Road, South Salem, NY 10590 [Owner of record: Linda B. Paulding, 20 Wakeman Road, South Salem, NY 10590]

Application for the renewal of a Special Permit pursuant to Article V, Section 220-38 of the Zoning Ordinance to authorize the storage of Contractor's Equipment.

The property is located on the south side of Wakeman Road, designated on the Tax Map as Sheet 47C, Block 10066, Lot 15, in an R-2A, Two-Acre Residential District.

No one was present to represent the applicant at the meeting.

Chairman Egginton stated that this matter will be adjourned until such time that litigation involving the applicant and the Town is resolved.
CASE ADJOURNED.

CAL. NO. 01-09-BZ Steven Angelilli, 105 Kisco Avenue, Mount Kisco, New York 10549 [Owner of Record: Victor and Joanne Ponzio, 8 North Lake Circle, South Salem, NY 10590]

Application for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of the proposed construction of a deck that will be closer to the side lot line (proposed 13.5', existing 15.2' where 15' is required) in an R-½A, One Half-Acre Residential District.

The property is located on the south side of North Lake Circle, designated on the Tax Map as Sheet 34A, Block 11830, Lot 4 in an R-½A, One Half-Acre Residential District.

No one was present to represent the applicant at the February 25th meeting.

Chairman Egginton read an email dated 1/28/09 from John and Melissa Cunniffe, 5 North Lake Circle into the record.

Chairman Egginton stated that a site walk was conducted on the morning of Saturday, February 21st. He asked if anyone wished to comment on the site walk.

Ms. Mandelker stated that they visited the property and as the extension has been explained it is approximately 1½ feet beyond the house, closer to the sideline. She stated

that it seems to her that this would have a minimal impact on the neighborhood and certainly it would improve the appearance of the house. Ms. Mandelker stated that the closest neighbor's house is set further back. She stated that they did ask the applicant if they had spoken to the neighbors and there appears to be no objection.

Mr. Krellenstein stated that the most affected neighbor would be the Meaney's at 10 North Lake Circle. He stated that the Board had requested that the applicant speak with them.

Chairman Egginton asked if anyone wished to be heard either in favor or opposed. No one responded.

Ms. Mandelker moved that the application be approved as presented for the following reasons:

- That there will be no undesirable change in the character of the nearby property;
- That there is no practical alternative to request a variance;
- That the area variance is relatively unsubstantial;
- That there will be no adverse environmental impact;
- That the difficulty is not self-created;

The motion was seconded by Mr. Price; In favor: Mr. Casper, Ms. Mandelker, Mr. Price and Mr. Krellenstein. To Deny: None; Abstain: Chairman Egginton; Absent: None;
CASE ADJOURNED.

CAL. NO. 02-09-BZ Town of Lewisboro Wild Oaks Sewer District, 11 Main Street, South Salem, NY 10590

Application for [1] a variance of Article III, Section 220-9D(2) in the matter of the increase in non-conformity; and [2] a variance of Article IV, Section 220-23E of the Zoning Ordinance in the matter of the upgrade to the Wild Oaks Waste Water Treatment Plant as part of the New York City Department of Environmental Protection Regulatory Upgrade Program.

The property is located on Nash Road, designated on the Tax Map as Sheet 7, Block 11137, Lot 122, in an R-4A, Four-Acre Residential District.

Chairman Egginton stated that on behalf of the town, Chazen Companies has requesting that the public hearing remain open at this time. He stated that the reason that they are requesting that the application be held open due to the review by involved agencies which include the Town of North Salem, New York City DEP, New York State DEC, New York State EFC, Army Corps of Engineers and the Town of Lewisboro Planning Board. Chairman Egginton stated that a site walk was conducted on the morning of Saturday, February 21st. He asked if anyone wished to comment on the site walk.

Mr. Casper stated that if they are reviewing matters before other agencies, the ultimate or final application may change.

Chairman Egginton stated that they actually state that in their letter, based upon these reviews, the application may change as a result of the comments received by these agencies.

Mr. Casper stated that he has no problem with it.

Chairman Egginton stated that the public hearing will remain open.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 03-09-BZ
Salem, New York 10590

Frank and Teresa Catallo, 400 Smith Ridge Road, South

Co-Application for a variance of [1] Article III, § 220-9D(2) and [2] § 220-24E of the Zoning Ordinance in the matter of the proposed construction of a 3' by 11' covered porch/stoop to the front of the retail building that will be closer to the front lot line (proposed 10' where 20' is required) and that will result in the increase in non-conformity other than use in a GB, General Business District. [3] Article III, § 220-9D(2) and [4] § 220-24E of the Zoning Ordinance in the matter of the existing 2940 square foot kennel to be replaced by the proposed construction of a 2940 square foot storage building that will be closer to the side lot line (proposed 4' where 15' is required) and that will result in the increase in non-conformity other than use in a GB, General Business District. [5] For a variance of Chapter 185, § 185-5F of the Code of the Town of Lewisboro in the matter of proposed nonconforming signage as to lot 24: Proposed wall sign (2' 6" W by 2' H) to be affixed to the building to face Smith Ridge Road that will be closer to the front lot line (proposed 10' where 15' is required) and that will result in the increase in non-conformity. [6] For a variance of Chapter 185, § 185-6D of the Code of the Town of Lewisboro in the matter of proposed nonconforming signage as to lot 24: Freestanding sign to be located south of the building on Smith Ridge Road that will be closer to the property line (proposed 5.8' where 15' is required). Handicap sign to be located south of the building on Smith Ridge Road that will be closer to the property line (proposed 2.5' where 15' is required). Directional sign to be located south of the building on Smith Ridge Road that will be closer to the property line (proposed 1' where 15' is required).

The property is located on the west side of Smith Ridge Road, designated on the Tax Map as Sheet 49B, Block 9831, Lot 24, in a GB, General Business District.

Co-Application of 2 West Road LLC (Pound Ridge Stone & Landscaping), 2 West Road, South Salem, New York 10590, for a variance of [7] Chapter 185, § 185-5F of the Code of the Town of Lewisboro in the matter of proposed nonconforming signage as to lot 1: Canopy signs (proposed/existing 2 where 1 is permitted per lot). Freestanding signs (proposed/existing 2 where 1 is permitted per lot). [8] For a variance of Chapter 185, § 185-6D of the Code of the Town of Lewisboro in the matter of proposed nonconforming signage as to lot 1: Existing granite sign to be relocated to the east of the building on West Road that will be closer to the property line (proposed 6.5' where 15' is required). Existing wooden sign to be relocated to the west of the building on West Road that will be closer to the property line (proposed 3.5' where 15' is required). Directional sign to be

located north of the building on West Road that will be closer to the property line (proposed 2.9' where 15' is required).

The property is located on the east side of West Road, designated on the Tax Map as Sheet 49B, Block 9831, Lot 1, in a GB, General Business District.

Mr. James DeLalla, ASLA was present at the February 25th meeting.

Chairman Egginton stated that he spent a few hours reviewing the 2007 and 2009 applications and there are virtually no changes with the exception of the external appearance of the storage facility. He stated that he understands that ACARC had requested some changes but there is no change in the footprint. Chairman Egginton stated that the Board did not walk the site because they did not receive the chronology until yesterday at the 11th hour. Chairman Egginton stated that he is satisfied that the ZBA can extend the original approval based on the evidence that was presented with respect to the chronology and the new drawings and the virtually identical site plan.

Mr. Krellenstein requested that the ZBA have a control date on this application, so they are not faced with a similar issue next year. He stated that it would be helpful so that the applicant can check in and inform the ZBA of the status of the application.

Chairman Egginton stated that the ZBA had a discussion at the last meeting regarding the expiration of variances. He stated that he is willing to extend the variance request for another year, but we would request that the applicant return to the ZBA at least 2 months prior to the expiration date of that variance with a written request for an extension of time and why that request is being made.

Mr. DeLalla asked if it is from the September 2008 date.

Chairman Egginton stated that it originally expired in September 2008 and we could only grant it for another year to September of 2009. He asked that the applicant return by July 2009 with the status of the application. Chairman Egginton asked if there are any other approvals that are needed.

Mr. DeLalla responded that they have Health Department approval which is good for one year so they have to renew that. He stated that they do not have DOT approval and he shared his concern about that. Mr. DeLalla stated they are awaiting DEC sign off at this point.

Chairman Egginton asked if the September date is a hardship.

Mr. DeLalla responded that he was concerned about the DOT approval.

Mr. Casper asked if the variances that were previously approved are exactly the variances that are being requested, nothing has changed.

Chairman Egginton stated that he compared the drawings. He stated that most of the variances had to do with signs being shifted away from the roadway but still in the setback area.

Mr. DeLalla responded that the only changes that he made to the plans were things that did not pertain to the variance requests such as plantings and minor shifting of parking spaces.

Chairman Egginton asked if anyone wished to be heard either in favor or opposed. No one responded.

Chairman Egginton moved that the existing variance requests under application Cal. No 33-07BZ be extended for a period of one year, expiring on September 6, 2009. Chairman Egginton stated as part of the granting of the extension of time, that the applicant or the agent inform the secretary of the Zoning Board of Appeals in writing within the two preceding months of the expiration date, regarding any further request for an extension of time if necessary.

The motion was seconded by Mr. Krellenstein; In favor: Mr. Casper, Ms. Mandelker, Mr. Price, Mr. Krellenstein and Chairman Egginton. To Deny: None; Abstain: None; Absent: None;

CASE ADJOURNED.

II. PUBLIC HEARINGS

CAL. NO. 05-09-BZ Michael Sirignano, Esq., 895 Route 35, Cross River, New York 10518 [Owners of Record: Neil Abramson and Amy Rodriguez, 1070 Route 35, South Salem, New York 10590]

Application for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of an existing run in shed closer to the rear lot line (existing 41 feet where 50 feet is required) and the existing hog house which is closer to the side line (existing 6.8 feet where 40 feet is required) than permitted in an R-2A, Two-Acre Residential District. Site walk scheduled for Saturday February 21st at 9:30AM.

The property is located on the north side of Route 35, designated on the Tax Map as Sheet 21, Block 10803, Lot 49, in an R-2A, Two-Acre Residential District.

Chairman Egginton asked if anyone objected to the notice as it appeared in the Lewisboro Ledger. No one responded.

Mr. Sirignano, Esq. was present to represent the applicant at the February 25th meeting.

Chairman Egginton stated that on this application the Board made a site walk prior to the presentation.

Mr. Sirignano stated that he came before the Board at last month's meeting to make that request and the Board was kind enough to accommodate his request. He stated that three members walked the site on Saturday and two members walked the site on Monday. Mr. Sirignano stated that his clients own both of the abutting parcels. He stated that they currently reside in the home on parcel 48 and are substantially complete with building their new home on parcel 49. Mr. Sirignano stated that in order to get a CO for the new home they must get a variance for the 2 accessory structures. He explained that there is a run in shed which is 41' from the rear line. Mr. Sirignano stated that the tax map is very helpful because the only potentially impacted property owner is a large open tract of land that will never be developed. He stated that the second variance request is for a hog house which is 6.8' from the side line which separates their two parcels and the only affected neighbor is themselves. Mr. Sirignano stated that these are not large structures. He stated that his clients measured the hog house without the overhang, it is 60 square feet and with the overhang it is 80 square feet. Mr. Sirignano stated that he spoke with the Building Inspector and the area of the overhang counts and the hog house would require a variance because it is greater than 64 square feet.

Chairman Egginton asked if anyone wished to comment on the site walk.

Ms. Mandelker stated that the property is approximately 1000 feet off of Route 35 and no one can see the property due to the elevation. She stated that the hog house is rather small and the run in shed is a small structure at the back of the property. Ms. Mandelker stated that there would be no impact to anyone, you can't see it from the road, it is only visible to the owners. She stated that she has no objection to either structure.

Mr. Sirignano stated that the Board insisted that the public hearing notice specifically stated the time of the site walk. He stated that the neighbor from the property down below attended and had no problem with it. Mr. Sirignano stated that the property is approximately 80 feet above Route 35.

Ms. Mandelker stated that normally they ask the applicants if there is any other place to put the shed. She stated that in this situation, she did not see the point of asking the question because in her opinion it has no impact at all.

Chairman Egginton responded it would appear that way based on the drawing.

Mr. Casper asked who built the structures.

Mr. Sirignano stated that they built the structures. He stated that Ms. Rodriguez is a vet, who took a sabbatical to raise her children and is taking care of the animals.

Ms. Mandelker asked what will become of the house they are currently living in.

Mr. Sirignano responded that they will keep it for family.

Mr. Casper responded that they could sell it. He stated that he went to the site on Monday afternoon. Mr. Casper stated that as Ms. Mandelker describes no one can see anything, the parcel abuts the land trust property and it is really small. He asked if the variances will cease once either structure is removed or decayed.

Mr. Sirignano responded if they are removed and not rebuilt within a year, then the variance would lapse.

Mr. Casper stated that a lot of applicants come before the ZBA talking about precedence. He asked when the sheds were built.

Mr. Sirignano responded that he did not know.

Mr. Casper referred to the site plan, dated 2007 and asked if the applicant obtained a building permit at that time.

Mr. Sirignano responded that is correct.

Mr. Casper stated that the site plan states “remove or relocate existing sheds to inside building setbacks as directed by owner.” He stated that in this situation, they have all the earth moving equipment so they have the ability to move things around. Mr. Casper stated that he did not think that there was a concrete foundation. He stated that this concerns him because another applicant can come to the ZBA and say they built it and knew it was not supposed to be there. Mr. Casper stated that in this case, they built the house knowing that the sheds had to be moved and didn’t move them. He stated that is his problem with this. Mr. Casper stated that he does not agree with anything that Ms. Mandelker said, it is this applicant’s foreknowledge of the violation of both of these structures relative to the setbacks. He stated that had they not been advised of that especially when they had an opportunity applying for a building permit had they not been aware of it, it would be like a lot of situations. Mr. Casper stated that then people would move forward with the best intentions. He stated that this is certainly self created and that is the problem. Mr. Casper stated that it is precedent.

Mr. Sirignano stated that every application stands or falls on its own peculiar facts or merits. He stated that he does not see any precedent being established here. Mr. Sirignano stated that the owners own both parcels and they are two fully conforming building lots side by side.

Mr. Casper stated that structurally speaking he agrees however, there is no question that they knew about this.

Mr. Sirignano stated that his client did not know. He stated that it was something that the architect put on the plan because the Building Department presumably said what are you going to do about these accessory structures that don’t have building permits, so they added the note to the plan. He stated that it is not fair to blame his client.

Mr. Casper asked if that is adequate notice to his clients.

Mr. Sirignano responded that there is no requirement that they remove it, they are requesting a variance. He stated that Mr. Casper is interpreting that as a promise by his client.

Mr. Casper stated not at all. He stated that it is a few years old and they were aware that it is out of compliance. Mr. Casper stated that everything else about this is unique. He stated that it was probably subdivided at a time when you were allowed one subdivision. Mr. Casper stated that it is a great spot especially with the land trust behind it and no one probably cares about the sheds. He stated that the question is, is it something they did themselves. Mr. Casper stated that Mrs. Rodriguez should explain it to us herself.

Chairman Egginton asked if anyone wished to be heard either in favor or opposed. No one responded.

Mr. Casper stated that if it is approved that it is not approved as hog houses or for horses because we don't know anything about the uses.

Chairman Egginton stated that it is an area variance.

Mr. Casper stated that a reference was made to a hog house. He stated that we are aware that the hogs, horses and turkeys are there and we don't want a suggestive reference.

Chairman Egginton stated that the specific variances have to do with setbacks.

Mr. Price moved that the application be approved as presented for the following reasons:

- That there will be no undesirable change in the character of the nearby property;
- That there is no practical alternative to request a variance;
- That the area variance is relatively unsubstantial;
- That there will be no adverse environmental impact;
- That the difficulty is self-created;

The run in shed being approximately 10' by 20' and the hog house is 80 square feet.

The motion was seconded by Mr. Krellenstein; In favor: Ms. Mandelker, Mr. Price and Mr. Krellenstein; To Deny: Mr. Casper; Abstain: Chairman Egginton; Absent: None;
CASE ADJOURNED.

CAL. NO. 07-09-BZ
10518

Joe Kulangara, 20 Adams Hill Road, Cross River, NY

Application for a variance of Article III § 220-12E (1)(2) of the Zoning Ordinance in the matter of an existing mail box pier and wing retaining walls located 24" from the edge of

the road and the height of the existing stone wall piers and fence that stands approximately 6' 9" tall where 6' is allowed in an R-1A, One-Acre Residential District. Violation dated 6/30/05. Decision of Town Court dated 4/7/08.

The property is located on the east side of Adams Hill Road, designated on the Tax Map as Sheet 21, Block 10541, Lot 36, in an R-1A, One-Acre Residential District.

Chairman Egginton asked if anyone objected to the notice as it appeared in the Lewisboro Ledger. No one responded.

Mr. and Mrs. Kulangara were present at the February 25th meeting.

Mr. Kulangara stated that he submitted an explanation. He stated that the first objection was the pillar.

Mrs. Kulangara stated that her husband just came from the hospital.

Chairman Egginton read the letter from Mrs. Kulangara labeled Exhibit C into the record. He stated that what this board does is look at each individual application on its individual merits. Chairman Egginton stated that they are concerned about precedent. He stated that they want to make sure they understand all the facts and they would like an opportunity to review the application and conduct a site walk on Saturday, March 21st.

Mr. Krellenstein asked if he understood the applicant's objection, is it that a variance is not needed.

Mr. Kulangara stated that he read the specification; it does not say that it should be measured from the bottom of the pillar; it says that it must be measured from the adjacent ground level. He stated that this is how it was done. Mr. Kulangara stated that his objection is that he did the inspection and this is not right.

Mr. Krellenstein stated that we have a decision of the court that states the variance is required; if we were to rule that you don't need a variance wouldn't we be contradicting the decision of the court.

Mr. Kulangara responded that he was planning to appeal.

Mr. Krellenstein asked if it is accurate to say that we have a decision of the court that states the variance is required.

Mrs. Kulangara responded a variance is needed.

Mr. Krellenstein stated that he is not trying to get into the merits of whether it is right or wrong.

Chairman Egginton stated that the reason it is before us is because you need a variance.

Mr. Krellenstein stated that the issue before us is for a variance. He asked if the basis of the applicant's objection according to his letter is that they don't need the variance, in essence that the court was wrong. Mr. Krellenstein asked if the applicant can address that because on one hand we have the court saying that you need the variance and you are not actually asking for a variance you are saying that we don't need the variance.

Mrs. Kulangara stated that they have no choice.

Mr. Krellenstein stated that as the Chairman has mentioned, we will come out and look at it. He stated that there is a decision of the court that says that you need a variance. Mr. Krellenstein stated that for the Board to accept the argument that the applicant does not need a variance is contradictory.

Chairman Egginton stated that the last statement of the letter states therefore, for all the above stated reasons, I respectfully request the Zoning Board of Appeals grant a variance for the above non-conformances.

Mr. Kulangara responded that is what he is asking for. He stated that if the violation is not corrected or a variance is not obtained for an appeal, the Building Department can put thousands of dollars of fines. Mr. Kulangara stated that he is stating the specification so that in the future nobody should be harassed like this.

Mr. Casper asked if there was an original copy of the survey.

Chairman Egginton responded that he does have the raised seal copy in the file.

Mr. Casper asked if the survey mentions the premises.

Chairman Egginton responded that it states premises being, but no address is indicated on the survey.

Mr. Casper asked that the surveyor identify the premises. He stated that this application is to approve the height of a fence on your property it should document the entire area where the fence exists that is in question as to the height of the fence. Mr. Casper referring to the survey stated that he sees the piers and the beginning of a fence.

Mr. Kulangara responded that the fence runs all around.

Mr. Casper stated that he wants to be sure that it does not run across the bold line labeled PL which he assumes to mean property line. He stated that we have had questions about structures and fences on private property vs. town property. Mr. Casper stated that a surveyor should identify the entire street frontage and the locations of the pillars and stone walls in relation to the property line. He stated that if the fence goes onto town property, they have no right to reach a decision on that aspect of it. Mr. Casper stated that the surveyor should finish the survey and identify the property because this survey needs to be finished.

Mr. Krellenstein stated that Mr. Casper brought up an interesting point and asked if the mail box is on the applicant's property.

Mr. Kulangara responded yes.

Mr. Casper stated that it is not on the applicant's property.

Mr. Kulangara responded no it is not on his property, it is on the town property.

Mr. Casper stated that it is on town property.

Mr. Krellenstein asked how can we grant a variance for it if it is not on your property.

Chairman Egginton stated that the members will review it. He read a letter into the record from Luke and Kelley Lambert of 4 Hunts Lane dated February 24, 2009.

Mr. Kulangara discussed the history regarding the purchase of his property in 1983.

Mrs. Kulangara spoke about being one of the first homeowners on their road.

Chairman Egginton stated that they have to focus on their purview and it is only the requested variance and if they can grant some form of relief that satisfies both parties then we have done our job. He stated that the ZBA is not a court.

Mr. Kulangara stated that is what he was trying to say.

Mrs. Kulangara stated that their late son was highly immunosuppressed and they did not want him to get a tick bite. She stated that the new neighbors did not know about this.

Mr. Krellenstein stated that they will come out and take a look.

Chairman Egginton asked if anyone wished to be heard either in favor or opposed. No one responded. He asked that the applicant have the surveyor place the information regarding the premises and the front property line along the street.

Mr. Casper stated that the survey should show the entire front of the applicant's property and the entire length of fence in relation to the property line.

Mr. Kulangara stated that this is an existing fence and has been accepted by a previous Building Inspector. He stated that it is all politics. Mr. Kulangara stated that he does not know if the surveyor has identified all the points.

Mr. Casper stated that we are being asked to approve the height of a fence that may cross over onto town property. He stated from the north to south end they need to show the entire front property line.

Mr. Kulangara stated that they submitted the survey of the entire property but it does not show the pillar, fence and mailbox. He referred to the survey marked Exhibit C and pointed to the town's portion.

Mr. Casper stated that they do not like to ask anyone for additional expenses but the problem is the applicant is asking the ZBA to approve something that is not on their property. He stated that they can not do that unless they know what is on their property and what is not. Mr. Casper stated that he could not vote to approve it unless he saw the whole thing.

Chairman Egginton stated that the information is incomplete for the members to be able to make a decision on the request for a variance. He stated that the fence extends the entire length of the front of the property.

Mr. Casper stated that he is stuck because the applicant presented a survey that does not have metes and bounds on it. He asked if the surveyor drew it in free hand or is it in fact exactly where the property line is.

Mr. Kulangara stated that he would have the surveyor come back.

Chairman Egginton stated that the public hearing will remain open and a site walk will be conducted on the morning of Saturday, March 21st 2009. Chairman Egginton stated that they need the survey prior to the site walk.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 08-09-BZ Michael Sirignano, Esq., 895 Route 35, Cross River, New York 10518 [Owners of record: Giuseppe and Jessica Faraci, 241 Smith Ridge Road, South Salem, NY 10590

Application for [1] a variance of Article IV, § 220-23D(11) in the matter of the construction of a 100 square foot open car port addition to an existing 600 square foot accessory structure that is larger than permitted (existing 600 square feet proposed 700 square feet) and [2] Article IV § 220-23E of the Zoning Ordinance in the matter of the proposed addition of a carport that is closer to the front lot line (proposed 40.9 feet where 50 feet is required) than permitted in an R-2A, Two-Acre Residential District.

The property is located on the east side of Smith Ridge Road, designated on the Tax Map as Sheet 47, Block 10056, Lot 25, in an R-2A, Two-Acre Residential District.

Chairman Egginton asked if anyone objected to the notice as it appeared in the Lewisboro Ledger. No one responded.

Mr. Sirignano, Esq. was present and accompanied by Mrs. Faraci at the February 25th meeting.

Chairman Egginton stated that he recalls this application.

Mr. Sirignano stated that it was an earlier version. He stated that the previous application was for 2 additional bays to a fully enclosed garage. Mr. Sirignano stated that the additional bays have been removed as per a stipulation with the town. He stated that they would like to add an open car port to the existing garage. Mr. Sirignano stated that it would put the structure to 40' from the lot line which is Route 123. He stated that visually speaking it would look like the earlier version but without the doors and give them some protection from the weather for their vehicles. Mr. Sirignano stated that there is a 6' stockade fence along Route 123 and this open car port would be mostly screened from the motorists along Route 123. He stated that there would not be any impact on the neighbors. Mr. Sirignano stated that it is a small addition to the structure and they need the variance for the front setback and for an accessory structure greater than 600 square feet.

Ms. Mandelker asked if the carport can be built somewhere else, perhaps on the other side.

Mr. Sirignano responded that it is difficult to maneuver a car to the right side of the garage and the land drops down by 2-3 feet, so there would be a lot of filling. He stated that there is a concrete pad here, so there would be no disturbance. Mr. Sirignano stated that they would re-build the roof and support it with 2 corner posts.

Chairman Egginton read a letter from Patty Reed, 1 Waters Lane dated February 25th into the record.

Mr. Sirignano stated that the addition has nothing to do with the chicken coop.

Chairman Egginton stated that they have a copy of an Order to Remedy Violation dated February 25th related to the chicken coop. He asked the other members if they can act on an application if there is a pending Order to Remedy on another matter.

Mr. Casper stated that he recalls that they don't entertain an application until the illegal issue is remedied.

Chairman Egginton stated that coincidentally the Order to Remedy date is March 25th which is the next meeting date for the public hearing.

Mr. Sirignano stated that they intend to get this remedied before that time. He stated that the chicken coop used to be on the side lot line further north of the garage. Mr. Sirignano stated that when the first difficulties came up, the applicants decided to move it behind the existing 2 car garage because they were asked to get it further away from the wetlands. He stated that they have been waiting for Bruce Barber, Wetland Inspector and Peter Barrett, Building Inspector to come out and tell them where to move the chicken coop.

Chairman Egginton stated that this will be the second move for the chicken coop.

Mr. Sirignano responded correct. He stated that one option would be to reduce it to 64 square feet and the other option is to go through the building permit process. Mr. Sirignano stated that either way the members would walk the site and the applicant would have the Order to Remedy lifted prior to the meeting.

Mr. Price stated that the last time they discussed moving the chicken coop to the back of the property.

Mrs. Faraci responded that the back of the property is all wetlands.

Mr. Price asked about the other side of the house.

Mr. Sirignano stated that the applicant and he are not available for the site walk. He stated that they will stake out the 2 corners of the proposed car port.

Chairman Egginton asked if they could describe the car port.

Mr. Sirignano stated that it is an open structure with a roof which will match the roof of the garage.

Chairman Egginton asked if one side of the carport will be solid because it is the existing garage.

Mr. Sirignano agreed.

Mr. Casper stated that he was reviewing the resolution for Cal. No. 06-07BZ and read "that as far as the garage is concerned, there is a lot of room on the other side of the original garage that the new garage addition could have been put up without the need for a variance." He stated that we will look at the right side.

Chairman Egginton stated that he recalls this application and had the same thought. He stated that at the time the members did look at the right side of the house as a location.

Mrs. Faraci stated that there is a drop off on that side.

Mr. Sirignano stated that they should keep in mind that the location that the applicant is proposing would have no impact on the neighbors or motorists on Route 123.

Mrs. Faraci asked if it is necessary to stake out the chicken coop.

Chairman Egginton responded that the chicken coop is not their purview.

Chairman Egginton asked if anyone wished to be heard either in favor or opposed. No one responded.

Chairman Egginton stated that the public hearing will remain open and a site walk will be

conducted on the morning of Saturday, March 21st 2009.
THE PUBLIC HEARING IS HELD OPEN.

III. NEW BUSINESS

Chairman Egginton asked if there is any new business for discussion this evening. He stated that there being no new business the meeting is adjourned.