

No one was present to represent the applicant.

Chairman Egginton stated that this matter will be adjourned until such time that litigation between the Town and the applicant is resolved. Chairman Egginton stated that although a decision has been rendered, the ZBA will hold this application open pending direction back to the ZBA.

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 on another issue is resolved.

CASE ADJOURNED.

CAL. NO. 55-07-BZ Teo Siguenza, 460 Old Post Road, Bedford, New York 10506 [Owners of Record: Carroll and Laurent Paulhac, 65 Chapel Road, Waccabuc, New York 10597]

Application [1] for a variance of Article IV Section 220-23A(1) of the Zoning Ordinance in the matter of a proposed 2 story, 9702 square foot single family residence where only 1 one-family detached dwelling per lot is permitted in an R-2A, Two-Acre Residential District. [2] a variance of Section 280A of the Town Law in the matter of the proposed construction of a one family residence which does not have frontage on a road which is improved to the satisfaction of the Town, said parcel consisting of 6.11 acres.

The property is located on the north side of Chapel Road, designated on the Tax Map as Sheet 23, Block 11154, Lot 22 in an R-2A, Two-Acre Residential District.

No one was present to represent the applicant.

Chairman Egginton stated that the ZBA is pending revised drawings from the applicant.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 06-08-BZ Richard Hauptner, Jr., 2 Ida Lane, Pound Ridge, NY 10576
Application for a variance of Article III § 220-12F of the Zoning Ordinance in the matter of the plantings on a corner lot maintained at higher than 4 feet in an R-2A, Two Acre Residential District.

The property is located on the west side of Ida Lane, designated on the Tax Map as

Sheet 41, Block 10267, Lot 3 in an R-2A, Two-Acre Residential District.

Mrs. Hauptner was present at the July 30th meeting.

Chairman Egginton read a letter into the record from the Hauptner's to Supervisor Edward Brancati dated July 28th 2008. He also read a letter into the record from Gary Langer, Esq. dated July 28th 2008.

Chairman Egginton asked if anyone wished to be heard on this application.

Mr. Michael Patterson, 4 Ida Lane stated that he is not going to address the smear campaign and attacks that were made on Monday night and tonight. He stated that they did try to get the bus stop moved to the end of their driveway, but the big bus can not go down the street. Mr. Patterson stated that the reason it became an issue last year was that their son now gets picked up by the big bus. He stated that it is a ploy to get away from the facts. Mr. Patterson stated that at the last 2 meetings they discussed the survey that they submitted. He asked if the bushes and fence are on the Hauptner's property or town property.

Chairman Egginton stated that speaking for himself, he does not know. He stated that in a way, he is not sure if it is relevant because the issue before the ZBA is § 220-12F a line of sight issue. Chairman Egginton stated that they are not here to adjudicate any other issues; bus stops are not a town issue. He stated that there issue is strictly in accordance with the variance request by Mr. Hauptner.

Mr. Patterson stated that the bushes and fence are part of the reason for the line of sight problem and more importantly it is the location of the bushes. He stated that it is basic to this problem. He asked where the bushes are.

Mr. Casper stated that he does not know if they have unanimity on the Board on this point. Mr. Casper stated that it may well be, but he does not see a reference in the applicant's letter, that there may be some indication at this point that we should not be concerned with who owns the property and as the Chairman has said let's just look at the issue. Mr. Casper stated that he has never seen a situation with an application that was before us that the land owner was not part of the application. He stated that he is not getting into the substance of the issues. Mr. Casper stated that the only document that he has seen that was formally prepared was the survey from Bunney and Associates, which shows that the contested area is town property. He stated that there is an obligation of the right of way abutters to take care of these properties. Mr. Casper stated that that alone would never be a basis for an application. He stated that to apply for a variance which is a legitimate application, the applicant would have to apply either as the owner or with the owner. Mr. Casper stated that is not the case, the Hauptner's don't own the property and if they did own it, they would have provided a survey. He stated that not being the case, that is the threshold; you don't get to the merits. Mr. Casper stated that he will not vote on the merits of this case.

Mr. Patterson stated that their survey shows that it is on town property. He asked if the home owner can legally apply for a variance on someone else's property in this case, town property.

Chairman Egginton stated that he can not specifically answer that question. He stated that he could offer his personal opinion. Chairman Egginton stated that he sold property on Mark Mead Road in 2002 that had a fence and privet hedge which he maintained. He stated that he looked at his survey and learned that what he was maintaining was not on his property. Chairman Egginton stated that if the town maintained all the rights of way in the town, our taxes would sky rocket. Chairman Egginton stated that the adjacent homeowner, it is understood will maintain the right of way. He stated that he goes back to the issue before the ZBA which is the sight line violation and a request for a variance.

Mr. Patterson asked if the home owner can request a variance for someone else's property, legally.

Chairman Egginton stated that the fact is that they have applied and the ZBA is deliberating it.

Mr. Patterson asked if the Chairman has conferred with the attorney on this matter.

Chairman Egginton questioned personally.

Mr. Patterson responded not you personally, the Board.

Chairman Egginton responded not to his knowledge.

Mr. Patterson stated you don't know the answer to the question and you have not spoken to legal counsel either. Is that correct?

Chairman Egginton responded that he has not spoken with legal counsel except for the information that is before us.

Mr. Patterson asked if legally the Zoning Board can rule on a variance.

Mr. Krellenstein stated that he senses that Mr. Patterson is cross examining the Chairman. He stated that if there is a comment that he would like to make in support of his objection then perhaps he should make it. Mr. Krellenstein stated that if the purpose of his colloquy is to tease out information that he directly wants, ask the question. He stated that to continue with the cross examination of the Chairman does not suit any purpose except perhaps his.

Mr. Patterson responded that he is trying to clarify some points that are very basic to this application.

Mr. Krellenstein asked what point is clarified by a question whether the Chairman has spoken with counsel which would be privileged in any case.

Mr. Patterson stated that he is trying to establish if an attorney has looked at this issue because it is a legal issue.

Mr. Krellenstein responded that is his opinion. He stated that he does not know if that is a clarification of anything. Mr. Krellenstein stated that what Mr. Patterson is trying to do is tease out information for a future date. He stated that if there is a point that Mr. Patterson would like to make because Mr. Patterson has stated his objection very well over a series of meetings. Mr. Krellenstein stated to continue to cross examine the Chairman on these points does not seem to get anywhere or serve any purpose.

Mr. Patterson stated that he is asking very pertinent questions that are basic to the application and problem.

Mr. Krellenstein asked how whether the Chairman has consulted counsel basic to the application.

Mr. Patterson stated that he wants to know if the ZBA has legal advice on the issue.

Mr. Krellenstein stated that is his opinion and he is entitled to it. He stated that whether the ZBA has taken legal advice is privileged in any event and he does not know that it is of concern to Mr. Patterson. Mr. Krellenstein stated respectfully that is a privileged matter.

Mr. Patterson asked can a home owner apply for a variance on someone else's property and can the ZBA legally rule on an application on somebody else's property.

Mr. Krellenstein responded that advisory opinions and questions that don't relate directly to the property don't need to be answered. He stated that a direct question on whether the Board can or can not rule on a variance that is applied for by someone that does not own the property, what Mr. Casper was explaining is the Board may not be unanimous on that. Mr. Krellenstein stated that the issue is not in the abstract whether that can or can not occur. He stated that the issue is whether the Board is going to grant the variance in this case where there seems to be no dispute that the applicant seeking the variance does not own the property. Mr. Krellenstein stated that the only issue before the Board is if the Board is going to grant this variance.

Mr. Patterson stated that he does not necessarily agree with anything. He stated that the other issue is the sight easement on the property and has not been addressed by the Hauptner's. Mr. Patterson stated that his survey shows it and the subdivision map shows it. He stated that Bill Cargain the Building Inspector back in the fall of 2007 stated that there is a sight easement. Mr. Patterson stated that it is an issue that has not been addressed here. He stated that no survey was submitted by the Hauptner's except for letters attacking them.

Mr. Krellenstein stated that he does not believe that there is a dispute that the Hauptner's own the property upon which the forsythia exists. He asked Mrs. Hauptner if there is a dispute there.

Mrs. Hauptner stated that at this point it is irrelevant.

Mr. Krellenstein stated that he knows that is their position. He asked if they assert that they own the property.

Mrs. Hauptner stated it is not clear with what they see on other surveys. She stated that they do not know how big the road is.

Mr. Krellenstein stated would you agree that you have not submitted evidence adequate to contradict the existing survey.

Mrs. Hauptner responded she has not submitted it.

Mr. Krellenstein asked if their counsel is present tonight.

Mrs. Hauptner responded no.

Mr. Krellenstein stated that his view on this is essentially it is difficult to understand how an applicant can apply for a variance on property they don't own. He stated that notwithstanding, Mr. Langer's comments are a more dangerous precedent. Mr. Krellenstein stated that Mr. Langer's letter is well taken and he understands his point but it is problematic to selectively take definitions out of your support. He stated that conceptually he has a hard time with a variance which is applied for by someone that does not own the property.

Chairman Egginton stated that the Board is not of one voice on this issue. He stated that they have different approaches on this matter.

Mr. Patterson stated that it has been a year that his son has been in danger and the Hauptner's are putting the town at great risk. He stated that they have spent a year trying to make this corner safe.

Ms. Mandelker stated that when they did the site walk, they did ask Mrs. Patterson why her son stood in that particular spot and not across the road where it was much easier to see him. She stated that Mrs. Patterson's response was that there is a ditch there. Ms. Mandelker stated that she did not see a ditch there just an indentation from the water. She stated that it appeared to her that the Patterson's son did not have to stand at that spot. Ms. Mandelker stated that if the forsythia bushes were trimmed so that they are maintained to the fence, it would not be terrible because it is a rounded corner. She stated that there is an issue with the bus company because the question is how come the bus does not go down that road to pick up the children. Ms. Mandelker stated that it is not the ZBA's issue but questions raised by the neighbors. She stated that in terms of what

her colleagues pointed out with respect to granting a variance to an applicant that does not own the property would be a dangerous precedent.

Mrs. Darleen Patterson, 4 Ida Lane stated that she spoke with Mr. Minihan the supervisor for transportation. She stated that he did come to their road and the cul de sac is not big enough. Mrs. Patterson stated that the Hauptner's and the neighbors have been slandering them because she puts her children in danger on the corner. She stated that the ditch on the other side is often wet. Mrs. Patterson stated that the bus turns around in Ida Lane and her son was nearly hit several times waiting at the bus stop with a 40lb back pack. She stated that her son can not get out of the way because of the Hauptner's fence. Mrs. Patterson stated that if her son stands on the other side of the street, the bus is backing in and the driver can not see him. She stated that the neighborhood is slandering them.

Chairman Egginton stated that they need to stick to the facts.

Mrs. Patterson stated that these are the facts.

Mr. Casper stated that they have heard 3 of the Members. He stated that if the threshold is whether the application is appropriate and if 3 of the Members feel that the application should not be before the ZBA. Mr. Casper asked if they could deal with that issue and have a motion to dismiss the application for lack of jurisdiction. He stated that if that motion is approved then the issue is tabled until the appropriate applicant is before the ZBA.

Chairman Egginton stated that it is a very good suggestion.

Mrs. Patterson stated that she did speak with Mr. Minihan.

Mr. Kevin Fitzgerald, 1 Ida Lane stated that in dispute to the testimony about the bus, he was home one morning and he saw the bus back into Ida Lane and saw the Patterson's son on his side of the street not on the Hauptner's side, standing behind the bus and he got onto the bus and it left. He stated that it negates what the Patterson's are stating.

Mrs. Hauptner stated that she did submit an official School Bus Stop Review Request Form. She stated that she spoke with Mr. Minihan's secretary and because they are tax payers and if there is a problem with the bus stop it doesn't matter if they have children or not. Mrs. Hauptner stated that as long as they have been living there all people assume that they own to the edge of the road. She stated that they were not being deceitful.

Mr. Casper stated that the applicant was not misleading the Board and it was in good faith and a reasonable application. He stated it is a question of jurisdiction.

Mrs. Erin Van Slyck, 41 Cross Pond Road stated a lot of parents drive their kids to the bus stop if they have issues like this. She stated on any street in Lewisboro and at the end of the driveways parents are dropping their kids off at bus stops.

Chairman Egginton asked if anyone else wished to be heard on this application. No one responded. Chairman Egginton asked Mr. Casper to make the motion.

Mr. Casper moved that the application be dismissed for lack of jurisdiction. He stated that the applicant is not present.

Mrs. Hauptner asked if Mr. Casper is referring to her husband.

Mr. Casper stated that the applicant being the owner of the real estate.

Chairman Egginton stated that it is a jurisdictional issue. He stated that he is getting a sense that a majority of the Board feels that they do not have that purview to either grant or deny the variance. Chairman Egginton stated that he is personally not of that opinion and that he has been swayed by counsel that they do have that jurisdiction. He stated that is the reason he asked Mr. Casper to make the motion.

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

Chairman Egginton stated that he appreciates everyone's understanding and patience.

CAL. NO. 14-08-SP Beverly Wilson, 57 Bouton Road, South Salem, NY
10590

Application for a Special Permit pursuant to Article IV, Section 220-23A(9) of the Zoning Ordinance to allow the storage of Contractor's Equipment.

The property is located on the south side of Bouton Road, designated on the Tax Map as Sheet 31, Block 10805, Lots 56 and 66, in an R-1A, One-Acre Residential District.

Mr. Chris Wilson was present at the July 30th meeting.

Chairman Egginton stated that subsequent to the meeting last month the ZBA received correspondence from Mr. Wilson. He read the letter dated July 21, 2008 into the record. Chairman Egginton stated that he was not in attendance at last month's Board meeting and Mr. Krellenstein has recused himself. Chairman Egginton asked if any of the Board members had a comment. He stated that he understands that this letter is proposing something a little different than was agreed to at the last meeting.

Ms. Mandelker stated that she has notes from the site walk regarding what was agreed to. She stated that they agreed that they would plant 50' of grass where presently there is gravel outside the barn on the east. Ms. Mandelker stated that they agreed that there would be no parking of trucks in that area. She stated that they discussed that heavy equipment would enter and exit the property on the west side. Ms. Mandelker stated that they discussed that the trucks would not enter or exit the property more than 2-3 times a

day from the west side. She stated that they discussed adding screening in the back far behind the house in the back field to screen the heavy equipment which includes the wood chipper. Ms. Mandelker stated that they agreed that the wood chippers would not be used near the barn or house. She stated that the barn would be used for lawn mowers, weed whackers and small equipment. Ms. Mandelker stated that they discussed that the primary driveway would be on the west side and employees would park to the west.

Chairman Egginton asked if Mr. Wilson could explain how his correspondence differs.

Mr. Wilson stated that he was not present at the site walk.

Mr. Casper asked if what Ms. Mandelker stated would be acceptable.

Mr. Wilson stated that his understanding with Mr. Wachter was that the employees would be able to exit the barn driveway. He stated that he agreed that the employees would park at the west driveway. Mr. Wilson stated that the traffic leaving and coming back everyday would come in the barn driveway. He stated the difference between this plan and what was proposed that day is in order to make a traveled way; he would have to excavate a huge area and put a base down to prevent tracking mud and dirt down Bouton Road. Mr. Wilson stated that it becomes economically unfeasible. He stated that the only time a chipper would be used on the property is if there is a need to maintain their own property is if it is one of their trees.

Chairman Egginton asked if the chipper leaves the property.

Mr. Wilson responded yes. He stated that it is infrequently used and the tractor and chipper would be stored at the back of the property. Mr. Wilson stated that they could be tucked in behind the hedge row. He stated that in his proposal instead of this road, adjacent to the barn they would create screening perpendicular to the barn and parallel to Bouton Road. Mr. Wilson stated that the 3 vehicles could park and exit. He stated that they will still plant the grass to assure the Wachter's that no trucks will be parked next to his property.

Chairman Egginton stated that he went to the site last Saturday and met with Jonah. He stated that another option would be to park the trucks near the Maple tree with some screening which might be a better idea.

Mr. Wilson stated that he had suggested that to Mr. Wachter in the inception. He stated that Mr. Wachter preferred out of sight out of mind because his concern was that there will be no congregating after work.

Mr. Casper stated that everything is being moved to the far side of the building. He asked if they are big vehicles.

Mr. Wilson responded that they are 2 Rack Body trucks and 2 pick up trucks.

Ms. Mandelker stated that she had the sense that Mr. Wachter did not want trucks going in and out on the east side and no objection if they went in and out on the west side.

Chairman Egginton stated that what he understood from the Board members after that site walk was that the lawn mowers and hand tools would be stored in the barn.

Mr. Casper stated that there are 2 different sets of trucks, the applicant's and the employees. He stated that at the site walk he thought the big trucks were back there.

Mr. Wilson responded that the chipper and the tractor are in back.

Chairman Egginton read the equipment into the record as follows: Brush Bandit 150 Chipper-5000 pounds and a tractor-2472 pounds both will be stored in back. He stated that the 2004 Chevy Rack Body Dump Truck-GVW 12000 pounds and 2007 Chevy Rack Body Dump Truck-GVW 12000 pounds would be stored in front. Chairman Egginton stated that the pick up trucks don't count.

Mr. Wilson stated that they are typical rack body trucks with the open cage on the sides.

Mr. Casper asked if it is better to move them forward instead of storing them in the back.

Mr. Wilson responded that it is 300' of road; it looks like a motor cross back there.

Mr. Casper stated that he had a different understanding.

Mr. Wilson stated that the chipper and tractor will stay back there because they are infrequently used. He stated that as soon as it rains it is a disaster back there.

Mr. Casper stated that this is an incredible piece of property. He stated that as soon as they install roads and grading back there, it will have an impact because it affects everything.

Mr. Wachter stated that it is evident from the discussion that there is a fair amount of confusion between how the property has been used in the past, what was proposed initially, what was discussed at the site visit and what is being discussed tonight. He reviewed the site plan with the Board members and Mr. Wilson. Mr. Wachter stated that it is a new parking area with new screening.

Mr. Wilson stated that now the vehicles are tucked behind the back side of the barn.

Mr. Wachter stated that Jonah had discussed that he was planting trees there.

Mr. Wilson stated that now they are bringing the vehicles to the other side of the barn which the Wachter's would never see. He stated that the screening is going to be placed perpendicular to the barn so that no one could see the vehicles from Bouton Road.

Mr. Maddock replied that he has no problem putting in screening near the Wachter's swing set.

Mr. Casper stated that they could park up to 2 vehicles near the barn.

Mr. Wilson responded that it would be 2 vehicles that need the Special Permit and the pick up truck.

Mr. Casper asked Mr. Wachter what he thought about that.

Mr. Wachter stated that it is inappropriate to have a commercial operation in a residential district and the activities go beyond storage. He stated that despite the conceptual opposition and in the spirit of maintaining good neighbor relations with Mrs. Wilson. Mr. Wachter stated that he has been very cooperative with suggesting many alternatives to try to solve the problems of financing Mrs. Wilson's property maintenance and cost effective storage of the contractor's equipment. Mr. Wachter stated that at the site visit what they discussed was having the equipment in the back and another possible place along the west side where the adjacent property owner has submitted a letter in support of the application. Mr. Wachter stated that that neighbor is a single man with no children and would be a lot less disruptive for him. He stated that with a 21 acre parcel the only suitable place to put the equipment is on his side of the property. Mr. Wachter stated that Mr. Wilson had explained to him that there are cost prohibitive conditions on the other side of the property. He stated that he appreciates the efforts that they have made to visually screen these vehicles. Mr. Wachter stated that he is concerned about the employees and how they are selected. He stated that he has some level of discomfort with having workers hanging out on the other side of the fence near his children's swing set. Mr. Wachter stated that he is not accusing anyone of doing anything improper but it is a potentially risky or undesirable situation. He stated that the important point here is a concern about commercial activity and the limitations of what the employees can do on the property. Mr. Wachter stated that he does not want this to become a workplace. He stated that he and Mr. Wilson had discussed a number of parameters and would like to have those elements as explicit parts of the approval so that they can monitor compliance.

Mr. Tom Gabriel, 62 Bouton Road stated that he was not able to attend the site walk but did attend the June meeting. He stated that he expressed some interest in the application but in the spirit of cooperation there has to be some way that they could work together on this situation. Mr. Gabriel stated that the Stabile's at 58 Bouton Road were unable to attend tonight. Mr. Gabriel stated that they both live directly across from the west entrance. He stated that they are completely willing to share the burden of the traffic and to share the burden of the storage but would be very vocal against the shifting of any equipment and staff cars to the west side to completely alleviate the concerns that the Wachter's have. Mr. Gabriel stated that then all they are doing is moving the commercial equipment and vehicles from one side to the other side of the property. He reiterated that they are willing to compromise and share the load. Mr. Gabriel stated that a cursory look at this plan shows that the vehicles would be stored in the center which would be fine

with them. Mr. Gabriel stated that certainly if everything is being shifted to the west side it is just shifting the problem from one side to the other.

Chairman Egginton stated that it appears that everyone wants to be cooperative and work this out. He stated that he liked Mr. Gabriel's idea. Chairman Egginton stated that they can come to some agreement with the Cutting Edge Landscaping operation. He stated that he was not sure about the precedent regarding operational issues of the Special Permit.

Mr. Price stated that they can look at conditions of the Special Permit regarding hours of operation and the days.

Chairman Egginton stated that Mr. Price has indicated that they can do that and that is the direction that they can go. He stated that he has only met Jonah Maddock once before, but knows that he will be very cooperative.

Mr. Gabriel stated that they are fine with sharing the load but not with shifting everything over to the west side of the property.

Chairman Egginton stated that if they come up with 2-3 operational bullets for the resolution that would be fine.

Mr. Wilson stated that conceptually it is simple that the vehicles to pick up equipment and drop off equipment, no loitering after the vehicles park and if there is loitering they can go over to Mrs. Wilson's house.

Chairman Egginton asked about the legal operational hours.

Mr. Krellenstein stated that it is 7AM to 7PM.

Mr. Wilson stated that it should be whatever the town allows for legal operations.

Mr. Wachter stated that they discussed that the employee cars and trucks be parked in the west driveway, access to the equipment in the morning and evening, no loitering, screening, and there will not be wood or similar debris from other sites brought onto the property whether for chipping or storage and sale. Mr. Wachter stated that they do not want chopping or splitting of wood except for the trees on the property. He stated that no chemicals, fertilizers on the property. Mr. Wachter stated that he raised in one of his previous letters that it was his view that the ZBA requires that this arrangement be passed by ACARC. He stated that he was interested to hear the view on that since his property is in the Special Character District.

Chairman Egginton stated that he does not believe that the Special Permits fall under ACARC. He stated that it is unique, it is not a variance. Chairman Egginton stated that if the applicant meets all the criteria of the Special Permit, then it must issue.

Mr. Wachter read Section 220-31B from the Zoning Ordinance.

Mr. Casper asked if Mr. Wachter has discussed this with any member of ACARC.

Mr. Wachter responded no.

Mr. Casper asked informally or formally.

Mr. Wachter responded no, he submitted it in a letter a few months ago.

Chairman Egginton stated that the applicant has met all of the criteria of the ordinance for the issuance of the Special Permit for a period of two years, subject to the continuing compliance with the zoning ordinance. Chairman Egginton moved that the application for the Special Permit be approved subject to the following conditions:

The following list of contractor's equipment will be part of the Special Permit

- Brush Bandit 150 Chipper-5000 pounds
- Tractor-2472 pounds
- 2004 Chevy Rack Body Dump Truck-GVW 12000 pounds
- 2007 Chevy Rack Body Dump Truck-GVW 12000 pounds
- Evergreen screening a combination of White Pine and Douglas Fir shall be planted in front of the Wachter property as indicated on the sketch presented by the applicant.
- Up to 3 vehicles can be parked where indicated on the sketch behind the barn to the immediate west of the existing barn.
- Screening will be placed parallel to Bouton Road to screen the trucks.
- The trucks will be permitted to enter twice a day between the hours of 7AM and 7PM from the east entrance.
- No loitering of the employees at anytime.
- Employees will park their cars on the west side.
- No toxic chemicals or sprays stored or used.
- No wood or debris from offsite and stored or dumped on the property.
- The Brush Bandit 150 Chipper-5000 pounds and the Tractor-2472 pounds will be stored in the rear of the property.
- Barn used for storage of lawn mowers and hand tools.

Mr. Casper suggested a one year renewal to monitor it more closely.

- The renewal will be for one year.

The motion was seconded by Ms. Mandelker; In favor: Mr. Casper, Ms. Mandelker, Mr. Price and Chairman Egginton; Abstain: Mr. Krellenstein;

CASE ADJOURNED.

CAL. NO. 15-08-BZ

Tina Harbach, 135 Lake Kitchawan Drive, South Salem,

NY 10590

Application for a variance of Article III § 220-9D (2) of the Zoning Ordinance in the matter of the proposed construction of an addition that will be closer to the front lot line (proposed 20 feet where 30 feet is required) and that will result in an increase in non-conformity other than use in an R-½A, One Half-Acre Residential District.

The property is located on the east side of Lake Kitchawan Drive, designated on the Tax Map as Sheet 42B, Block 10288, Lots 16-19, 21, 23 and 25, in an R-½A, One Half-Acre Residential District.

Mr. Wetzel was present to represent the applicant at the July 30th meeting.

Chairman Egginton stated that all the lots for this property are merged, therefore from a zoning perspective it is to be treated as one parcel.

Chairman Egginton stated that a site walk was conducted on the morning of Saturday, July 26th. He asked if anyone wished to comment on the site walk.

Chairman Egginton stated that the massing was explained by Mr. Wetzel at the site. He stated that it is a single story addition with a flat roof and interior stair. Chairman Egginton stated that there would be no impact to neighbors or very minimal impact.

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

Chairman Egginton 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, in fact it would be an enhancement;
- That the difficulty is not self-created;

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

CAL. NO. 16-08-BZ

Hagele Architects, 62 June Road, North Salem, NY

10560[Owner of Record: Susan Annar, 71 Cove Road, South Salem, New York 10590]

Application for [1] Article IV § 220-23E and [2] Article III § 220-10C of the Zoning Ordinance in the matter of the proposed new construction of a residence on an

existing undersized lot (existing 5,313 square feet where 10,890 square feet is required) and that will be closer to the side lot line (proposed 5.1' where 12' is required) and to the rear lot line (proposed 13' where 25' is required) than permitted in an R-¼, One Quarter-Acre Residential District.

The property is located on the south side of Cove Road, designated on the Tax Map as Sheet 33A, Block 11366, Lot 7, in an R-¼A, One-Quarter-Acre Residential District.

Mr. Hagele was present and accompanied by Ms. Annar at the July 30th meeting.

Chairman Egginton stated that the Board has wrestled with this application for months. He stated that they have done considerable research and soul searching with respect to this application. Chairman Egginton stated that they can vote on it tonight. He stated that he feels that they have been very honest, knowledgeable, deliberate and considerate. Chairman Egginton read into the record a chronology of events into the record. Chairman Egginton stated that he is of a very strong opinion that there are issues here that are not covered to his satisfaction in the Town Code. He stated that the ZBA will recommend to the Town Board to cover circumstances particularly in undersized lots that should there be a catastrophic failure, fire, self created issue, or an act of God they will be covered in the Town Code to allow structures to be built in kind. Chairman Egginton stated that he has literally stayed up at night because it bothers him so much. He stated that the Board has every intention to bring this to a vote tonight. Chairman Egginton stated that he is of the opinion that this particular hardship which is one of the balancing acts the Board judges, is possibly self created. He stated that New York State Town Law is very clear when it says that whether it is self created or not, that is not necessarily a criterion for denying or granting a variance if there are over riding concerns that they are asked to judge. Chairman Egginton stated that they have to consider extremely carefully the consequences of denial or the lot becomes un-buildable.

Ms. Mandelker stated that they need to consider the implication of approval because they need to be very careful of people that purchase a home on a lot and decide to demolish it and build a new house which could lead to a dangerous precedent. She stated that it is tricky and that is why they gave so much consideration. Ms. Mandelker stated that if the application is denied, the applicant loses the value of their property. She stated that as new construction, the Board of Health may not approve it because of the undersized lot if it can not meet the criteria and then the applicant would lose the value of their property. Ms. Mandelker stated that in her opinion she can approve it as new construction but she would want it to be exactly what was there, not something different because someone could come along and demolish a house and say that you allowed it in this case why won't you allow it now. Ms. Mandelker stated that if the applicant constructed exactly what was there, she would feel comfortable approving it. She stated that the ZBA would still propose to the Town Board a clarification in the Town Code dealing with unusual circumstances.

Chairman Egginton asked Mr. Hagele to address the Board.

Mr. Hagele stated that he apologized for not being at the last meeting. He stated that he does have Health Department approval and the Health Department has no objection based on the previously existing drawings. Mr. Hagele provided the Board with a set of plans stating that it is a set of the previously existing drawings and the exact same drawings that went to the Building Department and the ZBA prior for the new design with no objection. He stated that he would like to clarify a couple of items. Mr. Hagele stated that he does not believe that a new Building Permit was issued; he stated that it was his understanding that the Stop Work Order was lifted by the Building Department on the previous application. Mr. Hagele stated that he appreciates the Board's concerns about not setting precedent however; each applicant must come before this Board and demonstrate the relative pros and cons of each project. He stated that each project is its own entity and therefore precedent is not something that someone can sit on. Mr. Hagele stated that what they are proposing here as new construction is exactly the same product which was previously approved by the ZBA. He stated that they have not changed the design which was previously approved.

Chairman Egginton stated that the issue before the Board is a question of precedent under the actual Town laws as they exist with respect to the Zoning Board. He stated that he agrees that the design is exactly the same but the previous case was a renovation of an existing structure and in this case it is a brand new structure.

Mr. Hagele stated that in the end, the product is identical.

Chairman Egginton responded that he understands that however, the Code is not clear on that.

Mr. Hagele stated that is why there is a Zoning Board of Appeals to hear the merits of each application.

Mr. Krellenstein stated that he is just noticing that the copy of the plan that Mr. Hagele submitted to the Board this evening states "no objection to this renovation." Mr. Krellenstein asked what exactly are they renovating, the house was taken down there is nothing to renovate, the house does not exist. He stated that there is no renovation occurring because you took down the house, you did not get permission to do it, you are not renovating it.

Mr. Hagele stated that this is what the Health Department is willing to give based on Mr. DeLucia's conversations with the Health Department and walking them through the exact project.

Mr. Krellenstein asked if it is Mr. Hagele's assertion that the Health Department is aware that there is nothing on the site, no renovation is occurring and in fact it is a new construction. He asked if they used an ill advised word to refer to it.

Mr. Hagele responded absolutely.

Chairman Egginton stated that he spoke to Mr. Hagele briefly with respect to changing the drawings to reflect new construction.

Mr. Hagele responded that is true and it is reflected on the plans.

Mr. Casper stated that politics is involved. He asked if Mr. DeLucia acted on the applicant's behalf with this application before the Health Department because a Town Board member's name was brought up.

Mr. Hagele stated that Mr. DeLucia asked him to contact the Building Department and told him to speak with the Building Department which Mr. Hagele stated that he did.

Mr. Casper asked if Mr. Hagele would not have gone to the Health Department if Mr. DeLucia did not tell him to do so.

Chairman Egginton stated that in his opinion they should approve this application as new construction that it be designed and rebuilt exactly as the building stood, in kind. He stated that if the applicant wants to come before the ZBA for an application to expand the building and renovate it according to what was designed, that is the applicant's prerogative. Chairman Egginton stated that from his perspective the approval is to replace the building exactly as it was.

Ms. Susan Annar asked if the house would have to be built exactly the way it was and then expand it from there. Ms. Annar referred to the Chairman as insane. She stated that she understands the reason why the Board is saying that, but it is an economic disaster and impossibility. Ms. Annar stated that if they are talking about reality and hardship there is no way that she can afford to rebuild the house in the small configuration that it was. She stated that the ZBA has already approved the renovations as the Board has seen. Ms. Annar stated that the Board of Health has approved it, the Building Inspector has approved it and what they are here for now is to acknowledge that they have gone through the process. She stated that they have received the approvals and the Board is looking at the same renovation and giving it the same approval as the first time. Ms. Annar stated that she understands that there is a difference between a renovation and new construction.

Chairman Egginton stated that the difference is huge.

Mr. Hagele asked if there is reason to believe that the Board would not grant the same variances that it granted in September of 2007.

Chairman Egginton responded that he would be willing to listen to it as a separate application.

Mr. Hagele asked if it really makes sense to divide them as such if what they are here for is a variance for the side yard and the rear yard as well as the lot. He asked if it made ZBA

sense to build back exactly what was there in order for the ZBA to grant a variance which has already been granted.

Chairman Egginton stated that he can only speak for himself. He stated that his concern is the precedent. Chairman Egginton stated that the actual physical reconstruction of the house exactly as it was as far as the contractor's work is concerned in his opinion does not necessarily have to take place. He stated that he strongly believes that they grant this variance to replace the structure in kind and then come before the ZBA for a variance to request for the modifications.

Ms. Mandelker asked what the time frame is on the variance that was approved in September 2007. She stated that the variance is good for a year; therefore the variance is still in effect.

Chairman Egginton stated that it is a two step process from the ZBA perspective. He stated that the first step is to grant the variance for the rebuilding of the house in kind and the second is to grant the variance for the modifications.

Mr. Hagele asked if it could be done simultaneously. He asked if they have to build the pre-existing house.

Chairman Egginton stated that they are in the position to grant the first one this evening.

Mr. Casper stated that he does not want Ms. Annar to lose her house. He stated that on behalf of the town, he does not want people to say that they decided to knock down their house because in their opinion they decided of their own volition that it should be knocked down because they decided it was unsafe. Mr. Casper stated that there is nothing in the Code that talks about a non conforming area variance that is destroyed by an act of God or fire. He stated that given all the parcels in town that are either substandard size or the houses are in existence to close to the property line. Mr. Casper stated that if every one of them had to be considered new construction when destroyed by fire, lightning or termites then a lot of hardships would result. He stated that for what ever reason you decided to take the house down. Mr. Casper stated that the vacant lot still exists and we are still trying to get your house built. He stated that he does not want anyone to decide it was a good idea to take a house down. Mr. Casper stated that despite your view, precedent counts, it does matter. He stated that each set of circumstances is unique because each decision is based upon those circumstances.

Mr. Hagele stated that this is a unique set of circumstances. He stated the final product that they are requesting is exactly the same as what has previously been approved.

Mr. Casper stated that it is simple to say the house fell down and we would like to rebuild and we don't have to worry about anything else. He stated that there is a Code which we abide by, the Zoning Board interprets the Code. Mr. Casper stated that we have the added advantage of being here to try to take care of people in difficult circumstances even when they are self created. He stated that that is this case, in our view it was poor judgment, it

shouldn't have happened, it is very strange that the house came down and disappeared all in 1-2 days time. Mr. Casper stated that he feels that there is a hardship for that misjudgment. Mr. Casper stated that the applicant should submit an application for an amended structure and they would make a decision on that. He stated that the ZBA is trying to protect the Town as well as make sure the owner gets her house. Mr. Casper stated that the ZBA is very upset with the politics, more than 2 conversations with the Supervisor on this matter and now you brought in another Town Board member which is inappropriate. He stated that there are not even a satisfactory number of copies from the Health Department which we should not even accept. Mr. Casper stated that the plans state "existing structure" and it is a reconstruction, it is too confusing. He stated that he would like to approve the home and then the addition. Mr. Casper stated that there are a lot of people who are going to get the wrong message and abuse the ZBA if we are not careful. He stated that Mr. Hagele also acts on behalf of the Town of Lewisboro and should respect that.

Mr. Hagele stated that he respects that they are 5 good people trying to do a good job but disagrees with their interpretation.

Chairman Egginton stated that they deliberated about this for a long time. He stated that the best thing for the applicant under these circumstances is to allow the ZBA to vote for a reconstruction in kind and come back before the ZBA with an application for the variances for the modifications. Chairman Egginton stated that way their integrity is preserved. He stated that the ZBA will ask the Town to amend the law. Chairman Egginton stated that he has been a member of the ZBA for 15 years and has never seen an application like this. He stated that this has kept him up at night and wants to do what is best for the applicant.

Mr. Hagele asked about the deadline for the next meeting. He stated that in reality his client could be living in the building and that has not occurred. Mr. Hagele stated that he is not holding them responsible but it is a painfully obvious case. He stated that if this drags on they will miss this years building season.

Mr. Krellenstein stated that he is not going to be castigated for this at all. He stated that the fact that the applicant is not in the house now, is no way the responsibility of this Board. Mr. Krellenstein stated that we did not knock down the house without permission. He stated that the house got knocked down without permission, a fair amount of back channel politicking went on. Mr. Krellenstein stated that even at this late date we have something that at a minimum is misleading, "no objection to this renovation," there is nothing being renovated here, the house does not exist. He stated that the Board in good faith is attempting to comply with their wishes by giving the applicant the variance. Mr. Krellenstein stated that perhaps the applicant should heed the Board's advice.

Ms. Annar stated that she did not mean to imply that the Chairman is insane and apologized for her comment.

Chairman Egginton accepted her apology.

Ms. Annar stated that the members are all good people and have spent a lot of time on this application with her best interests in mind as well as the best interests of the Town. Ms. Annar stated that this has not been any easier or clearer for them. She stated that she is not familiar with the laws and she is trying to make her way through this.

Chairman Egginton stated that he is an architect and serves as the Chairman of the Zoning Board of Appeals. He stated that if this was his job and his contractor discovered that the house was unsound, the contractor would have contacted him or the home owner. Chairman Egginton stated that he would have instructed the contractor to stop work immediately, put the tools down, instruct them not to walk on the site and go to the Building Department and report an unsafe condition. He stated that if the architect or the home owner were not informed by the builder at the time he discovered this, I would have sued him.

Ms. Annar stated that it is a very expensive course to take.

Chairman Egginton stated that he would have gone the next day to the Building Department and filed for a Demolition Permit and followed the proper procedures at the time.

Ms. Annar stated that perhaps they should have exercised better judgment. She stated that the Town, the Board and politics scare her. Ms. Annar stated that this is what she wanted to avoid. She stated that she has spent tens of thousands of dollars just to live over the past year.

Chairman Egginton stated that the Board does want to help her in the context of the Town law as they we know it and within their responsibilities.

Ms. Annar asked that the Board not misinterpret confusing wordage on even the plans as a deliberate attempt to mask anything. She stated that they are not trying to hide anything; they are trying to very carefully follow the rules.

Mr. Casper stated that the Chairman used the term reconstruction. He stated that he would like to approve the reconstruction on the theory that that is the general intention of the Code and not inflict a hardship on the home owner that loses their home. Mr. Casper stated that he is not concerned about a new construction of this breadth and the ramifications down the road.

Chairman Egginton stated that the reason we used the term "new construction" was on advice from Counsel and the application.

Mr. Hagele asked about the possibility of doing this as a paper reconstruction and coming back subsequently with a proposal for the alteration and addition.

Mr. Casper stated that in his opinion the ZBA approves the reconstruction of the home and then an application for the addition. He stated that he would prefer not to use terms

such as paper or anything. Mr. Casper stated that the simple facts are the safest facts to use. He stated that what the ZBA feels is appropriate for the ZBA to approve is the reconstruction of the home. Mr. Casper stated that in light of questionable circumstances it seems like the ZBA is inclined in your favor rather than against you. He stated that it was a bad idea to take the house down that way, it was coming down one way or the other, no one planned on that and the applicant expedited the process and he was sure that they would never do that again. Mr. Casper stated that it falls into the category of an act of God consequently the Code does not deal with that. He stated that they would like to suggest that the Town consider protecting people in your circumstances that have legal nonconforming structures and amend the Code.

Mr. Price stated that the Department of Health has to sign the plans for the reconstruction of the existing house before the applicant returns to the ZBA.

Chairman Egginton moved that the application be approved as a reconstruction of the structure as it originally existed prior to its structural failure and subsequent removal from the site subject to the following conditions:

- The applicant will need to file a revised set of drawings with the Building Department that reflect the condition of the home prior to its structural failure;
- That there will be no undesirable change in the character of the nearby property, in fact it would be an enhancement;
- That there is no practical alternative to request a variance;
- That the area variance is not substantial with the same exact setbacks. However, the lot size variance is substantial;
- That there will be no adverse environmental impact;
- Can not comment if the difficulty is self-created;

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

CASE ADJOURNED.

PUBLIC HEARINGS

CAL. NO. 17-08-SP

Frank and Elizabeth Cunniffe, 77 Elmwood Road, South

Salem, NY 10590

Application for a renewal of a Special Permit pursuant to Article IV § 220-23(A)(6) of the Zoning Ordinance in the matter of the continued operation of a horse training academy [Whipstick Farm].

The property is located on the east side of Elmwood Road, designated on the Tax Map as Sheet 44, Block 10057, Lots 3, 4, 98 and 99 in an R-4A, Four-Acre Residential District.

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

Mr. Cunniffe was present at the July 30th meeting.

Chairman Egginton read the Special Permit Inspection Form into the record, dated 7/8/08. Chairman Egginton stated that this application is a renewal for the Special Permit and he is inclined to waive the site walk.

Mr. Krellenstein stated that he is inclined to waive the site walk.

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

Chairman Egginton stated that the application meets all of the criteria of the Zoning Ordinance for a Special Permit. He stated that an application for a Special Permit unlike a variance is a legislative finding by the Town Board not the Zoning Board of Appeals that if it meets the criteria of the ordinance then the permit must issue. Chairman Egginton stated that based on the information given by the Building Inspector who had indicated that all the plans and conditions are in conformance with that of the prior approvals and the testimony given by the applicant, the ZBA resolves to approve the application for the renewal of the Special Permit under the same conditions and terms of the previous Special Permits which shall be incorporated into the new Resolution as follows:

- The conditions delineated in the Horse Management Plan be deemed both part of the previous applications, as well as deemed part of this present Resolution.
- The renewal of the Special Permit is granted for a period of five (5) years.

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

CAL. NO. 18-08-BZ

Ronald and Marie Crispi, 1 Gideon Reynolds Road, Cross River, NY 10518

Application for a variance of Article III, § 220-12E (2) (a) (b) of the Zoning Ordinance in the matter of the proposed installation of a 2 foot wooden fence attached to a pre-existing stone wall which is longer than 100 feet in length and less than 10 feet from the street line (on Route 121) in an R-4A, Four-Acre Residential District.

The property is located on the north side of Gideon Reynolds Road, designated on the Tax Map as Sheet 16, Block 10533, Lot 504 in an R-4A, Four-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. Crispi were present at the July 30th meeting and accompanied by Mr. Bernard De La Paz.

Mrs. Crispi stated that they are here to seek a variance for the installation of a 2 foot

wood fence on top of an existing stone wall fence. She stated that the stone wall is longer than 100 feet in length and in some parts less than 10 feet from the street line on Route 121. Mrs. Crispi stated that they provided a sketch of the fence for the ZBA to review and would like to install the fence to alleviate hardship on them in terms of lack of privacy and noise created by the close proximity of their home to Route 121. She stated that they currently have a stone fence but the functioning of the stone fence in terms of privacy and relieving noise has been compromised by the fact that there is an elevation difference between Route 121 and where the stone fence is actually located. Mrs. Crispi submitted photos to the Board to illustrate that. She stated that Route 121 sits up and their property dips down.

Mr. De La Paz stated that as you look across the road to the house you can look over the fence.

Mr. Krellenstein asked if the fence is on their property.

Mrs. Crispi responded yes.

Mr. De La Paz stated that they took a transit and measured the difference in the height. He stated that the stone wall goes from 2'7" higher than the asphalt to 3'3" higher than the asphalt.

Mrs. Crispi stated that the stone wall sits in a hollow.

Mr. De La Paz stated that when he stands at their front door, you can see the tires of the cars passing by.

Mr. Krellenstein asked how long the actual stone wall is.

Mr. De La Paz stated that it is 300' in length.

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, August 16th 2008.

Mrs. Crispi stated that they have spoken with their neighbors about this application and they are in support.

Mr. De La Paz stated that the stone wall is not parallel to the road. He stated that the distance from the asphalt to the stone wall at the nearest is 16' and at the far end 40'.

Mr. Casper stated that they are putting a 2' fence on top of the existing stone wall.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 19-08-BZ Drew Hoffman and Mindy Gelbart Hoffman, 44 Lambert Ridge Road, Cross River, NY 10518

Application for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of the proposed construction of an addition consisting of a one car garage (with relocated side entry, a full bathroom and laundry room) with storage on the second story that will be closer to the side lot line (proposed 18 feet where 30 feet is required) than permitted in an R-1A, One-Acre Residential District.

The property is located on the north side of Lambert Ridge Road, designated on the Tax Map as Sheet 17, Block 10533, Lot 428, 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.

Dana Owen was present at the July 30th meeting to represent the applicants. He stated that they are proposing a one car garage attached to the house. Mr. Owen stated that Katonah Management was notified by the Hoffman's.

Chairman Egginton read a letter from the Hoffman's to the Board of Homeowner's Association, dated 7/27/08. He asked if the applicant has heard a response.

Mr. Owen stated that they had a verbal response. He submitted a letter from the neighbor that is most directly affected at 46 Lambert Ridge.

Chairman Egginton read a letter from Eric Sherr and Michele Auerbach dated 7/28/08.

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, August 16th 2008.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 20-08-BZ

Application of Vickie Ross, 45 Long Pond Road, Armonk, NY 10504 [Property Address: 46 Lake Kitchawan Drive with vacant parcel located on Birch Spring Road] for a variance of Article IV, § 220-23E and 220-23(11) of the Zoning Ordinance in the matter of an existing accessory structure constructed without a Building Permit on a parcel without a principal dwelling and that is closer to the side lot line (existing 0.7' where 12' is required) in an R-¼, One Quarter-Acre Residential District.

The property is located on the south side of Birch Spring Road, designated on the Tax Map as Sheet 42A, Block 10545, Lot 30 in an R-¼, One Quarter-Acre Residential District.

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

Ms. Harting, Esq. was present to represent the applicant. She stated that her client has owned the property since 1993 and the prior owner has owned it since 1986 and had the survey done which shows the shed. Ms. Harting stated that the Building Department had conferred that at one time there was a house on this lot. She stated that the shed was there in 1986, but they do not know who built it. Ms. Harting stated that according to the assessor's card the same owner has owned both lots. She stated that they are selling the property now.

Mr. Krellenstein asked if both properties are being sold.

Ms. Harting responded both are being sold. She stated that since 1973 the same owner has always owned both properties. Ms. Harting stated that they can not merge the lots.

Mr. Casper asked if it is a ROW or a flag lot.

Ms. Harting responded that her client tried to find out who owns that piece of land.

Ms. Posadas responded that the Town of Lewisboro owns it.

Mr. Steven Woodstead, 18 Birch Spring Road stated that he lives directly across the street.

Chairman Egginton read a letter from the Woodstead's into the record dated 7/29/08.

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, August 16th 2008.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 21-08-BZ Bedford Poolscales, Inc. PO Box 793, Bedford New York 10506 [Owners of Record: Daniel and Mihaela Stan, 39 Cross Pond Road, Pound Ridge, New York 10576]

Application for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of the proposed construction of a pool that will be closer to the side lot line (proposed 30 feet where 40 feet is required) than permitted in an R-2A, Two-Acre Residential District.

The property is located on the east side of Cross Pond Road, designated on the Tax Map as Sheet 41, Block 10266, Lot 09, 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. Thomsen of Bedford Poolscales was present at the July 30th meeting and accompanied by Mrs. Stan. He stated that he has some letters from contiguous neighbors in support of the application.

Chairman Egginton read a letter from Mr. Charles Luisi dated 7/24 into the record. He read a letter from Mr. and Mrs. John van Sicklin dated 7/24 into the record and a letter from Mrs. Erin Van Slyck.

Mr. Thomsen reviewed the site plan with the members. He stated that they tried to put the proposed pool on the other side. Mr. Thomsen stated that they spent 6 months in an attempt to relocate or bury the power lines to facilitate the location of the pool. He stated that as luck would have it there are several telephone poles and high voltage lines that run through their property, therefore a pool could not be safely located anywhere where there is a possibility of a line breaking. He stated that NYSEG told them it is virtually impossible to do anything and because of the high voltage lines it is unlikely. Mr. Thomsen stated that the septic field is located off the rear of the driveway. Mr. Thomsen stated that when the Stan's purchased the property, there was no survey of record; they obtained a survey to satisfy the needs at closing. Mr. Thomsen stated that they did locate the pool on that survey and obtained a Building Permit for the pool. He stated that when he went out and physically laid the pool out on the property, he couldn't understand the dimensional confusion with the house. Mr. Thomsen stated that they did try unsuccessfully to get that surveyor to resurvey the property. He stated that they had the property resurveyed by H. Stanley Johnson and indeed the house was located in the wrong place on the survey about 6-7 feet closer to the property line. Mr. Thomsen stated that that negated their Building Permit because the pool would end up partially in the house. He stated that they are asking for a variance from the side yard from the required 40 feet to 30 feet so the applicant can place the pool basically where they intended to place it.

Ms. Mandelker asked how far back the septic field goes.

Mr. Thomsen stated that the septic field was field located at 20 feet off the driveway instead of further back as on the original survey.

Ms. Mandelker asked if the pool could go further back on the property.

Mr. Thomsen stated that the proposed pool is exactly 21 feet off the septic system and the Board of Health requires 20 feet.

Ms. Mandelker asked if the pool could be placed towards the rear property line.

Mr. Thomsen stated that the septic extends back and there is a dramatic slope on the rear of the property. He stated that the Board of Health is taking exception to pools being down hill from septic systems. Mr. Thomsen stated that they thoroughly investigated every option possible.

Mr. Krellenstein asked what is around the pool.

Mr. Thomsen stated that it is a fence enclosure to meet the New York State code. He stated that any decking would have to go between the pool and house.

Ms. Mandelker stated that the other option is to relocate the septic fields to the right.

Mrs. Stan stated that they tried to relocate the septic field last year and they could not because it would affect the neighbor's wells.

Ms. Mandelker asked where their well is located.

Mrs. Stan responded at the front of the house. She stated that they have tried everything for years. Mrs. Stan stated that they are moving the garages to the other side to put the pool there.

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, August 16th 2008.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 22-08-BZ Timothy Lener, AIA, 394 Bedford Road, Pleasantville, New York 10570 [Owners of Record: Andrew and Lori Laub, 23 Cornel Drive, Goldens Bridge, New York 10526]

Application for a variance of Article IV § 220-23 of the Zoning Ordinance in the matter of the proposed increase in building coverage [proposed 9.46% (6657 square feet) where 9% (6326 square feet) is required] than permitted in an R-2A, Two-Acre Residential District.

The property is located on the west side of Cornel Drive, designated on the Tax Map as Sheet 13, Block 11152, Lot 233, 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. Tim Lener, AIA was present to represent the applicant at the July 30th meeting and accompanied by Mr. and Mrs. Laub.

Mr. Lener submitted photos for the record. He stated that they exceed the building coverage because the pool structure itself is included as a building which is 815 square feet. Mr. Lener stated that when he met with the Building Inspector, he told the applicant that the gazebo would be counted in the building coverage. He stated that when the Building Inspector saw a photo of the gazebo, it would not be counted towards the building coverage. Mr. Lener stated that the real number is 257 square feet because the 74 square feet of the gazebo does not count.

Mr. Lener stated that they will stake out the area for the addition.

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, August 16th 2008.

THE PUBLIC HEARING IS HELD OPEN.

The meeting was adjourned.