

Town of Red Hook  
Zoning Board of Appeals Meeting Minutes (Approved)

December 10, 2014

**CALL TO ORDER**

The meeting was called to order at 7:00 PM by Chairman Annas.

**ROLL CALL**

Members Present: Nick Annas, Chris Carney, Ken Anderson, John Douglas, Trilby Sieverding, Jim Hegstetter

Members Absent: Tim Ross

Also Present: Christine Chale, office of the Town Counsel

**PRELIMINARY BUSINESS**

Minutes of November 12, 2014: [Regarding the minutes] We got some comments from legal counsel. This board and the Planning Board, unlike the rest of the boards are liable for legal action if we don't have everything done just right. She [Victoria Polidoro] highly recommended that we do one of two types of minutes. Either we identify only the issues and how we voted on them, or there is a detailed minutes, like the one you see here. I think there are about 15 pages here. For legal reasons she highly recommended that we go with the detailed version. A year or so down the road people who made comments here are going to forget what they said, and the context in which they said it. We're going to be looking at lengthy minutes from here on. In an effort to keep it [the minutes] short, we are going to make our meeting short. The comment I have toward the second half of this you [to Anne Rubin] start using [people's] initials. Can you use full names?

Anne Rubin: Yes, I already changed that. John [Douglas] had sent a list of changes, and I did everything, except for the one that was not indicative of what was said.

Chairman Annas: And you caught a couple of minor typos?

Anne Rubin: Yes.

Chairman Annas: Are there any other comments on the minutes? [There are no comments]

Chris Carney moves to accept the minutes, and Chairman Annas seconds the motion. All are in favor.

Planning Board Minutes and Letters: Chairman Annas asked the Board if they had any comments. There is something of major interest in the Planning Board minutes, but it's currently disguised – I'm not sure the Planning Board is even aware of it. There is something about combining a couple of parcels out on Spring Lake Rd.

Ken Anderson: Is that Marty Willis' property?

Chairman Annas: No, I think it is Anagnos, but Niagara bottling wants come in and pump water from Red Hook, transport it to Kingston, and bottle it. I want to make the board [ZBA] aware of it for what might be coming down the pike [future applications for area/use variances].

### **PUBLIC HEARING (continuation from the ZBA November 12<sup>th</sup> meeting)**

Appeal 14-08, Douglas and Talea Taylor application for an interpretation of the determination of the Building Inspector denying building permit #2014:0073 be revoked pursuant to Section 74-5 K Fire Prevention and Building Construction, of the Code of the Town of Red Hook, siting mobile home was illegally placed on the Historic Hudson Valley property, i.e., without a valid building permit. The applicant's property is located at Montgomery Place Orchards, River Road in the Agricultural Business District, Tax Grid #6173-00-520145.

Trilby Sieverding motions to continue the Public Hearing, Chairman Annas seconds.

Chairman Annas: We went through quite a bit of this at the last meeting. Is there anybody, who would like to add something new to the issue at hand?

Richard DuVall:[attorney for the Applicants] Thank you for the opportunity to speak. I want to briefly address 2 points that were made at the hearing [at last month's ZBA meeting]. The attorney for HHV raised some questions, and I have here a written submission, which I'll pass out [distributes copies to Board and Clerk].

Chairman Annas: This is in response to last month?

Richard DuVall: yes.

Ken Anderson: Is this the same as the one you passed out [at the October ZBA meeting]?

Richard DuVall: No. This just responds to a couple of points that were brought up at the hearing last time. I'll summarize briefly, so as not to take up too much time on a busy agenda.

Chairman Annas: If you would please. Just a moment, I want to take a break for a moment. With all of the lawyers in here, I feel naked without our legal representation. [Makes a phone call to see what is holding up the Town Counsel – leaves a message for Victoria Polidoro].

John Douglas: [makes a comment. Ask him, since it is unclear.]

Chairman Annas: We are just starting. Where we are... the applicant's legal counsel has presented us with another brief, which he is going to summarize, briefly. And Victoria [Polidoro] said she would be here, but for reasons unknown to me, she is not here.

Richard DuVall: There is hardly anything I'm going to say that is not in here [referring to written submission]. So Victoria will be able to review it [when she gets here].

Chairman Annas: What's in this brief that is not in the other [submitted in the October ZBA meeting]?

Richard DuVall: We are responding with information to points that were raised during the hearing. We wanted to put to rest the notion that there are any [public] health or safety questions here. The electrical inspection certificate is offered as exhibit 1. The water test is attached as exhibit 2, and the Taylor's insurance coverage (selection?) page is attached as exhibit 3. So the extent that these concerns are being raised with the physical situation, or the health and safety aspects of this installation, I think they are not well founded.

The second point goes to the jurisdictional question, which has been raised by HHV, we hadn't heard about it before the hearing, and I am grateful for the opportunity to briefly address that. I have attached to exhibits 4 and 5 the guidance documents from Ag and Markets Department. The suggestion, or notion, made by HHV, at the last hearing was that the only place to address a question of whether a given regulation unduly restricts farming, is the Ag and Markets Commission. The point is best made in exhibit 5, on the first page, last paragraph, which says:

“In most cases farmers should exhaust their local administrative remedies, and see, for example certain permits, exemptions under local law, and variances, before the department [Ag and Markets] reviews the administration of a local law.”

What we are asking for here is that this Board interpret its zoning rules, where it is required to have either a signature by the owner, or an affidavit by the applicant. I am asking this Board to interpret in this narrow circumstance, which I can't see being repeated ad nauseam repeatedly. In this unique circumstance, between the HHV and the Taylors, hardworking 28 year farmers, which has been documented and discussed before, to require those things, in order to get a permit for a mobile home, clearly essential to farming in an operation like this, unduly restricts this farming operation. And I think that this Board has the power and the jurisdiction to do it, and that we had to come here. I am done, unless there are any questions.

Chairman Annas: Yes, where is my lawyer? I am reluctant to rule on this in her absence.

John Lyons: I don't read Mr. DuVall's exhibit 5 to mean what Mr. DuVall is saying. Farmers should exhaust their local remedies and go to Ag. and Markets as a last resort.

Chairman Annas: What action does the Board want to take? Does anyone object to a postponement for later this evening, until Victoria [Polidoro] arrives?

Ken Anderson: I am still hearing the same stuff we heard months ago. I want to hear more from the audience. The law states that a labor camp is legal. The issue is well documented.

Chris Carney: The key issue is a matter of interpretation. We need a postponement.

Jim Hegstetter: We had an executive session, where it was determined that our attorney would represent us.

Chairman Annas: I have a text from Victoria Polidoro. She is currently ill, and is sending someone else. This issue will be closed and then reopen later this evening.

John Douglas moves for a continuation, Chairman Annas seconds. All are in favor.

Chairman Annas: The next item on the agenda is three appeals separately, with[in] the same issue. [It consists of] an inn and restaurant on the Greig Farm.

Jim Hegstetter moves to open the Public Hearing. John Douglas seconds. All are in favor.

## **PUBLIC HEARING**

Appeal 14-10, Norman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39 C limits the number of Special Permitted uses to 1 (one) in the ABD zone.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812.

## **PUBLIC HEARING**

Appeal 14-11, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39A requires egress and ingress on a state road.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812.

## **PUBLIC HEARING**

Appeal 14-12, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-93 B limits the number of seats in an Inn to 30.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812

Chairman Annas: [to Applicant] Is there anything you would like to present? The Applicant, Norman Greig, describes the location of the barn on his property, its position on Pitcher Lane, and the history of the barn, in the same manner that he did at the November 12<sup>th</sup> ZBA Meeting.

Anne Rubin has a recorder failure, and asks for a brief (roughly one minute) pause in order to fix it. Once it is fixed the Public Hearing continues.

Norman Greig: [One of] the three variances is to have an inn that must be accessed from a State Highway. I would respectfully submit that the traffic [on Pitcher Lane, resulting from the inn and restaurant] would actually be substantially less that we had with the Pick-Your-Own in that same field in the 70's, 80's and 90's. The character would not change, because we would remain agricultural for the public. The second issue is only one Special [Use] Permit allowed per

property. The one I have is for the two acres of grass, that is a runway on the same property, a half mile away. I don't know that one impacts the other. The third variance is for [increasing] the allowed thirty seats in the restaurant to the proposed eighty seats. It's on a side road, where you're not going to do a lot of business at night. I see it as a daytime situation, but I don't think thirty seats is a viable size. I think it needs the capacity to handle bigger groups. With fourteen rooms, there, you hope to make it a hub, a conference center for events, and outside, day people coming in to use the facilities. So those are the three questions before the Board, as I see it. I am happy to answer any questions.

Chairman Annas: Would anyone else care to comment?

Nicole Gill: [a resident at 139 Pitcher Lane] I live opposite the proposed barn, in a residential home for five [people]. [She presents three copies of a letter with a photograph, illustrating the proximity of the barn to her home, to the Board.]

Jim Hegstetter: You are across the street?

Nicole Gill: I live directly across the street. I oppose the request for a variance for an inn and 80 seat restaurant. [She reads the letter, submitted to the ZBA on December 8<sup>th</sup>, 2014] I have written a letter which I submitted to the Board on December 8<sup>th</sup>, 2014. [She reads the letter]. (See Exhibit A)

Chairman Annas: Would anybody else like to speak to the issue, if you have any new information to add?

John Deckoff: [husband of Nicole Gill]

There is a commercial establishment that was already there when we bought the house. It seems to fit quite well with the local environment. They sell soil and plants. There are also a couple of rental properties back there, and they seem like nice people. So Catey does a good job running the business [flower shop], and I guess she'll be evicted. And the people who live on the property will be evicted. So that doesn't seem very friendly. So that's one aspect of what I want to say, and the other is the nature of the business is changing so much. It's essentially going to be an alcohol establishment. You know, I live right across the street from it, and people are going to be coming out at ten o'clock at night and relieving themselves and maybe throwing up – potentially in my front yard. It's almost like, why not build an Indian casino? The change in type of commercial activity is extreme, not so much that it is commercial, but what it will become is so different than what it is now.

Chairman Annas: Anybody else [to comment]?

David Migdal: [resident at 152 Pitcher Lane] I have a one acre parcel in the middle of all of this, with the [Greig] airstrip on one side, and the barn on the other. I would refer to it as the one acre parcel. If you look at the map[in materials submitted to the ZBA] you will see we are kind of in the middle of it. My wife and I have been living there for six years, full time. I don't think an area variance would be the appropriate variance to change the use. There is a rule that only one Special Use is permitted on a parcel. If you say there are two [Special] Uses on a parcel, you are changing the use. If you have a Special [Use] permit for an airstrip, it is not for the airstrip, it is for the use of the airstrip, to fly planes onto it. Now you will have another special use for an inn – you have doubled[the allowable number of Special Use Permits on a parcel] and changed the use. The Town allows one Special Use [Permit] on a parcel. You have added those two

uses. You didn't change any dimension. Nothing you could measure with a ruler. Uses don't have dimensions, if you were going to add two uses, or three uses, you need a Use Variance, not an Area Variance, which cannot accomplish that. It's also true to the specifics, when you go to an inn; it's something that can have a dining room with thirty people. But Norman doesn't want that. He wants a Special Permit for an inn, and he wants Special Permit for a restaurant – to be a total of three Special Permits. A restaurant can have as many seats as you like, you can have eighty seats, you can have a hundred seats. An inn is not a restaurant, an inn has thirty seats, and it is described that way. It gives a certain sense of what it is, what an inn, on a Town Road, in an Agricultural District means. The footprint does not change whether there are thirty people, or eighty people, the barn stays exactly the same size, the footprint does not change. What changes is the use. By adding another Special Use [Permit], a third permit, would get him precisely what he wanted. So a Use Variance is what is required, not an Area Variance. It has nothing to do with anything you can measure by a tape measure. The reason I believe it is limited to ten rooms, not fourteen or sixteen, is because this is a Town Road, and the use of the Town Road is what is going to be preserved by that rule. A Town Road, in which every permitted use, is in use, all the time. People are doing You-Pick [Fruit], and families are walking across the road all of the time. There are carts of vegetables and berries, and children are walking all the time behind them. They are in the field and coming on their bicycles, they are stopping at fields and walking from field to field, [Mr. Migdal further discuss the traffic situation of Pitcher Lane – attesting that a ten room inn, permitted on a Town Road is more suitable on Pitcher Lane than a 14 room inn, which requires egress and ingress on a State Highway] All of these changes that are proposed hurt me as the person living just next to it. Right now, we live in a kind of paradise [Mr. Migdal describes the present conditions at his property]. If a hotel with a convention center go up, next to my property, it is impossible that the value and quality of life on my property will not drop dramatically. [Mr. Migdal describes, the changed conditions he expects to experience with the advent of the proposed inn and restaurant adjacent to his property]. In these permits, you are not only supposed to consider the Applicant, you are also supposed to consider the Applicant's neighbors. And I don't believe that living in the country this way, in absolute quiet, is not substantially changed, when the neighborhood turns into something like a business area. [He presents the Board a letter, submitted on December 8<sup>th</sup>, 2014.] (See Exhibit B)

At 7:45pm Christine Chale Esq. arrives from the office of the Town Counsel. Chairman Annas informs her of the postponement of the Taylor Appeal, number 14-08, and that it will continue after the present Public Hearing is concluded, now that she has arrived.

Chairman Annas: [to Mr. Migdal] Just for your edification, this Board deals with two basic issues: Interpretations, which is what the first Applicant on the agenda is dealing with, and Area Variances, which concern anybody who wants to change the numbers on anything, regarding current ordinances. This [Appeals 14-10, 14-11, 14-12] are technically an Area Variances that he[the Applicant] is going after. Does anybody else want to comment?

Amy Dubin: [resident at 107 Pitcher Lane and owner of Dorriedale Farm] It is one hundred and eighty acres, contiguous with, and across the street from, 160 Pitcher Lane. It is farmed by Lloyd Kellerhouse, he farms hay, and Kenny Migliorelli, who farms a wide assortment of vegetables. I have three copies of my remarks [she distributes them to the Board, and reads them]. (See Exhibit C)

Chairman Annas: Does anybody else care to speak to this?

Laura Pensiero: [owner of GiGi Hudson Valley. Operated a catering hub with a 30 seat seating area directly across Pitcher Lane from the proposed inn and restaurant]. I've been in the restaurant business for fifteen years, thirteen in Rhinebeck. I operated at Greig Farm for 8 years, and I'm really pleased to hear you say Pitcher Lane is still a paradise. What I operated [on Pitcher Lane], I would not consider to be a restaurant. It was multiuse. I know the impact of a restaurant - I run a high volume restaurant in Rhinebeck. The impact is substantial. I live in the area [of Pitcher Lane], so I'm also a neighbor. I was very cognizant when I operated in that area, that people needed their peace and quiet. They chose to be on Pitcher Lane and the surrounding area, as I have. What I did there is run a café with thirtyish seats, but we were only open during the day. And we were restricted to a Tavern License, which means there was beer and wine, but no hard liquor or beverages[containing it], and I was not open at night. I think this is one of the major factors of people enjoying and supporting GiGi Market, while I was there. It[the opening of an inn and restaurant] will change the area. People running a bar and restaurant is a completely different thing than running a country market with some seats. We didn't even have table service for the first six years. It was something we accommodated. I believe Mr. Greig saw my success, and pushed me out of my own lease after significant investment in his infrastructure. And I used it as a catering hub, which had no impact whatsoever on my neighbors, because we would just use it as a catering commissary. This isn't spoiled [sic] grapes, I know what the impact is going to be with an eighty seat restaurant. Just as a neighbor, I don't want it.

Chairman Annas: Ok, anybody else?

Ken Migliorelli:[of Migliorelli Farm] Agriculture is changing and to keep it profitable we have to be creative in changing our businesses. When they spoke of alcohol, in fact, alcohol is an agricultural product. We're starting a brewery on the farm. I sell a lot of my rye and other grains to distilleries. As far as traffic is concerned, the traffic issue is not a problem. The people here who have spoken about it have only lived here a short time. I remember the lines of cars in the '70s and '80s and early 90's, when Norman had 35 acres of strawberries, there were lines of cars on Pitcher Lane. So I don't feel traffic is an issue. I understand that it might have an effect on some immediate neighbors in the area, possibly, I don't know. I have been to Europe several times and have visited agritourism places that were much larger, than what he[Applicant] is speaking of, and there were smaller ones also. It's a trend that has been going on in Europe for decades. It was a pleasure being on [one of these] operations, and many were quite a bit larger than what is being proposed here. You need to consider that agriculture is changing. As far as weddings go, people want an agricultural setting like this. So I'm for it.

Chairman Annas: Are there any other comments?

Linda Keeling: [resident at 238 Pitcher Lane] Did you receive our letter?

Chairman Annas: No

Linda Keeling: It was an email. Did you receive it?

Anne Rubin: No, when did you send it?

Linda Keeling: On Sunday.

Jim Hegstetter: Where did you send it?

Linda Keeling: To the ZBA.

Anne Rubin: I never received it.

John Douglas: Do you have a copy? Why don't you read it to the Board, and then give Anne a copy.

Linda Keeling: Yes. [She reads the letter]. (See Exhibit D) I also want to make known that the road is a bypass road, it is not actually a Town road. So it's not a dedicated Town road. So if you are considering the fact that it is not on a State road, you should also consider that. In regard to what Laura [Pensiero] said, things morph. You could give him the permits and such, and it morphs into something else. I had talks with Laura, but at one time she had a big tent and a wedding party that went on way into the night. The music came right to our house. I closed all the windows and everything, and I could still hear it. I had the TV up, and I could still hear it. I talked to her, and she said she wouldn't have that anymore. I could see this venue, which [would occupy] flat land and sound carries. So I can see that carrying to all of the neighbors. Maybe even down where I am on 238 Pitcher [Lane]. So I'm going with the Zoning Code designed in 1993, and I was a part of that. So if you want to change something, you have to change the Zoning Code. It is what it is, and it should stay that way.

Chairman Annas: Any others? [No one comes forward] Can we have a motion to close the Public Hearing? Does anyone [on the Board] want any further information from anybody [at the Public Hearing]?

John Douglas: [to Amy Dubin] How were you involved with the drafting of the Ag Business District Zoning? Was it Section 143 – 93, including inns and Special Uses?

Amy Dubin: I worked with Norm and Ken on the farmers' side. Basically representing the farmers' interests. It was mainly subdivision issues, and specifically the forty acres. For example, if you had less than forty acres, could you have a house? I did not work on any of the Special [Use] Permit issues.

John Douglas: So you didn't work on any of the agricultural business?

Amy Dubin: No, it was more on the land use side. Kenny [Migliorelli] worked on the section with inns.

Ken Migliorelli: That was the last change we made – the size. We went from the three acres to the forty acres.

John Douglas: I'm particularly interested in inns. Ken, what was the whole reason for the inns?

Ken Migliorelli: We put it there so if somebody wanted to have a shop or something to add to the [agricultural] business at hand. Things change in agriculture. There are a lot of inputs that go into what we do. So if we can get creative and bring in more revenue, this would be a real asset to the Town.

John Douglas: When you came up with 10 rooms on a Town Road and 16 rooms on a State Highway, what was the conversation around that?

Ken Migliorelli: It was a group consensus. We also worked on determining the size of a farm market, and offering the possibility of a welding shop, or a mechanic's garage, and things like that.

John Douglas: [to Ken Migliorelli]When talking about an inn, you also decided no night clubs. Section 143-4 c [of the code] states that an inn may not operate as a night club or drinking establishment, with live entertainment, other than by a single instrument or vocalist. And according to the rules, no drinking and dancing. So an inn could not have a DJ or a band. Would you agree with me?

Ken Migliorelli: I guess so

John Douglas: So if Norman came in and wanted to do a ten room inn with a thirty seat restaurant, he could not have a DJ or a band. The way I'm interpreting the law.

Ken Migliorelli: When was that law put in?

John Douglas: 09/01/2011

Ken Migliorelli: All I can say that New York State has made the laws more lenient for on farm breweries and on farm distilleries.

John Douglas: I'm talking about music.

Chairman Annas: Let's not put all alcohol in one barrel. There is a distinction between distilling and digesting..

Ken Migliorelli: How can you have a gathering without music? This committee gives variances. I don't see a problem with it.

John Douglas: You can't. You helped create this law. [It does] not allow music to disturb the peaceful serenity on a farm.

Ken Migliorelli: This committee gives variances. If you feel this is acceptable.

John Douglas: That is what has been asked. If Mr. Greig gets his variances, he can build an inn, but he can't have a band or a DJ.

Ken Migliorelli: I don't see a problem with it. Maybe there is a timespan, [within which] they could have the music. You couldn't be [doing it] at eleven or twelve o'clock at night.

John Douglas: Well that's a different issue, that's not one of our issues. You helped create this law, and as a group, you all decided that you would not allow music. And I guess that law [speaks to] the serenity of the farm operation.

Nicole Gill: That would make a lot of sense with three children sleeping moments away from the red barn.

Ken Migliorelli: Well if the music stopped at ten pm, would that be all right?

John Douglas: That's not part of our variance.

Chairman Annas: That's right. Now we have one more neighbor's letter to look at. It's from Katy Karakassis.

Doug Migdal: She's my wife. She is with our grandchildren, and couldn't be here.

Chairman Annas: So that was the letter you read.

Doug Migdal: Yes.

Amy Dubin: I would like to speak to his [John Douglas'] point, since my memory was jogged when he was speaking to Kenny [Migliorelli]. The ABD originally defined a B&B as 2000 square feet, which the farmers felt was unreasonably too small to have an economic impact. [The committee], however, wanted to maintain the spirit of a B&B. Though I was not involved directly, I think it was expanded to ten rooms. The spirit was always a small, low key operation, not a big, commercial establishment – just an adjunct to the farm

John Douglas: The way the law is written now, if Norm were on a State Road he could have a 16 room inn with a 30 seat restaurant, and on a town road he could have a 10 room in with a 30 seat restaurant, as an accessory use. Linda [Keeling] has brought up an interesting issue [concerning the road].

Chairman Annas asks for a motion to close the Public Hearing.

Norman Greig: I would like to address the comments that have been made tonight. Greig Farm has operated on Pitcher Lane for seventy years, and I heard a lot of comments tonight about how we are ruining the character of Pitcher Lane. I would respectfully suggest that people are still coming and that the properties [on Pitcher Lane] are still desirable, because we tried to do the right thing by the land, and by the neighborhood over the seventy years we have been there. All of our buildings are [assessed] on a square footage basis. One of the battles that happens with the Town of Red Hook, and the Zoning Code, is that we are assessed on a square footage basis. We pay more in School Tax every year than my father paid for the farm, when he bought it. If you don't allow us to use the buildings we have, and we are supposed to pay the full tax on it, there's a problem. I'm not looking to ruin the neighborhood. I'm looking to do something that is in character with the neighborhood, that is going to be respectful of the neighbors, that is going to address each of their issues individually and collectively. But at the same time, if you talk about using 2000 square feet of a 9500 square foot building and then assessing it as a 9500 square foot building, there's a problem. And this is one of the things Agriculture has been at odds with the Town about for years and years. It's a battle every time we write a new zoning code. I'm not looking to open a strip joint or a bar that's going to be open all night. We have room for fourteen rooms in this building and it's in the middle of the bucolic agricultural area. What I have done over the years is to invite everyone to come and participate and enjoy what we have to offer, which is that agriculture. We have gone to a lot of trouble to keep houses off the property. Over the years all of the farms surrounding us have been developed with housing. Greig farm has not added any houses, we have taken down two. This is what we are about. We can do the ten rooms and thirty seats if this is where we end up, but we'd like to use the whole building.

Chairman Annas asks for a motion to close the Public Hearing.

Trilby Sieverding moves to close the Public Hearing. Chairman Annas seconds, and all are in favor.

Chairman Annas: Does anybody want to make a motion for these three requests [Variances] let's do them individually?

Ken Anderson: Are we going to open up the meeting to the item on the agenda that we had initially[referring to Appeal 14-08]?

Chairman Annas: Yes, we will have that.

Trilby Sieverding: I would like to make some comments about what we have just heard.

Jim Hegstetter: As would I.

Chairman Annas: Ok, let's do that first [before making a motion].

Trilby Sieverding: I would just like to review the fact that the Town enacted significant zoning changes a few years ago, when they created the ABD. Those changes took the land rights away from large landowners and some farmers, with no compensation at all. In return they were promised some special uses that would enable them to continue farming in a profitable way. One of those uses is the creation an inn, [also serving food and beverage], which we are discussing tonight. We are talking about a three hundred year history of preserving this land for farming. I would present to you that it is due, in large part, to the farmers who have been farming it, such as the Greig's for seventy years. [The Greig land] could have easily been another development. So all of that sacrifice in farming, which we all know is not a profitable thing, and it's quite difficult, Instead they could have easily cashed in and put up a [housing] development.

I would also make the point that this parcel being 90 acres, is adversely affected by the Town's one special use permit per parcel law, in the ABD. If we were talking about a twenty acre parcel, we'd be talking about four special use permits on this property. So this property is adversely affected. I think this rule is general rule. There was not a lot of thought about tapering it, based on the size of the parcel. Also we talked about farm vehicles going up and down the road, and odors. Those are all allowed under the Right to Farm Law of New York State. We also heard about [landlord]/tenant relations on Mr. Greig's property, who's coming in, who would have to leave. You know, that is his business with his tenants. He can end those leases as he pleases. I would say there is a lot of speculation we heard about noise levels. We have Noise Ordinances in this Town, and this establishment would be subject to those. This is not the same situation as the Ham House. Ham House is not in an area which allows inns as a special use. That was all done outside of the law. What else,[referring to her notes]? I have all kinds of thoughts on this. [With] farmers and large landowners, everybody wants to look at their property, but they don't want them [farmers] to do anything with it, because they are enjoying seeing it. Large landowners and farmers should have rights that we promised them with the zoning changes, and I think it is time to own up to those rights.

Chairman Annas: As far as rights go, they are able to sell their development rights.

Trilby Sieverding: That is so very limited.

Chairman Annas: We are getting in to issues here regarding opinion, I don't think we need to get into. I think we have a number of issues here. I know these numbers and locations [referring to numbers of rooms for an inn, and seats for an accessory restaurant, located on a Town Road, in the ABD] and the types of businesses they can run on these properties. These things were pretty well established and pretty well discussed and argued, in different venues, and this is what it is [referring to the permitted 10 rooms and 30 seats for an inn/restaurant, on a Town Road, in the ABD]. I don't think it is reasonable for this Board to just go in and change those numbers.

I think one of the purposes of law, ordinances, or whatever you want to call them, is really to protect one person from another. I think all of the neighbors in there bought their residences in a farm area knowing what the ordinances are and I think they have a reasonable expectation that that is what it's going to remain. Frankly, I don't see this as an extension of a farming operation. It needs to remain a 30 seat restaurant, with a 10 room inn.

Trilby Sieverding: It is under the ABD in the Town Code, [Chapter]143, section 128.

Chairman Annas: Not of that size.

Trilby Sieverding: The Board has the right to grant less than what is requested.

Chairman Annas: That's right. I know the rights of the Board. I am personally saying I think it is excessive. I also think the alcohol here is not a permitted use on farms, only the distillation or brewing of alcohol is a permitted use, but not the consumption of alcohol.

Trilby Sieverding: We don't even know if this establishment will get an alcohol license. It's all speculation.

Chairman Annas: I know. You want to argue, but I am just stating the points that were brought up by different people here. I'm not arguing whether or not he's going to have a liquor license.

Jim Hegstetter: As Mr. Migliorelli said earlier, the Board has the right to change the variance. I always like to hear from, and respect the neighbors who come forth - the neighbors who are directly impacted by what will happen if we make that change. I haven't heard one neighbor tonight speak in support this [the proposed restaurant and inn], other than Mr. Migliorelli, who is not a neighbor. Is there anybody, who is here, who is direct neighbor, or got notification [of the Public Hearing] in support this? This is an important factor for me to consider and weigh too.

Chris Carney: A couple of things really bother me about this, that were mentioned. One is, the taxes. I think we can all appreciate how onerous the taxes have grown, particularly over the last dozen years or so, in this community, and there doesn't seem to be any real solutions. We're all struggling with that, so I can appreciate that perspective. The goal of making something economically viable, especially repurposing something to offset taxes, definitely has merit.

I agree with what Trilby said. It seems the large parcels are adversely affected by the limit of one special permit per property. If we had ten or fifteen parcels, we would be looking at ten or fifteen special uses for all these properties, so in that sense, that factors into it [the variance requests] for me somewhat, when entertaining whether this parcel should have more than one Special Use [Permit].

The other issue for me, is [something] that has been referred to as Agritourism. There doesn't seem to be a real clear definition of that, to me. I just haven't heard enough evidence to support exactly what that is, but I'm struggling with that definition, because I'm looking in the [Town] Code, but it's very obtuse. What exactly is supported under the definition? Obviously I agree with a lot of the neighbors, who have spoken out, that an event like a wedding An event like a wedding party, or a rehearsal [dinner] or putting up people for a Bard [College] function does not constitute and agritourism related event, [or] probably does not constitute and agritourism related event.

The Applicant is also asking for a variance from thirty [seats] to eighty [seats in the restaurant]. I do deem that excessive as the number of seats the inn would eventually house. I struggle with that in two respects - one that it is excessive, and two, that he needs that much of a variance for it to be economically viable, so he intimates - which speaks back to my earlier point about having to have an establishment large enough to offset his taxes. I guess the bottom line is, I have real issues defending the law, when it has direct opposition to economics, particularly when economics is changing so vast[ly] in our community not only for the nation, but the area in which we live.

Ken Anderson: Twenty or thirty years ago, we treated residential areas as residential, and business areas as commercial, along the lines of the [RH] Village. Our new zoning now has essentially incorporated business with agriculture. I think that it is very important – one of the greatest movements that has happened in our community for some time. We are allowing commercial activities to take place in agricultural areas. This is an example of a business, in an agricultural zone, and also a residential area. There can be residential homes on Norman's property. So what he's asking for is a business in the agricultural zone. Now, to answer that question, I think we could all pretty much agree that it [a business in the agricultural zone] is good. Let's create some business, to assist [the farmer in] the agricultural business, but in order to do that we need to be careful as to what kind of business that we're going to put into this agriculture district. And [we need to consider] how closely is this business related to a commercial operation. I think Norman has spelled out very clearly that this is kind of an extension of agriculture. It is utilizing the property for some advantages. I think what's bothering most of us is the size of the activity that may take place on this property. And Norman can visualize what this business would consist of. And, I have confidence that whatever is approved, or, if it's disapproved, or not accepted. But, what is approved we will hopefully be in agreement with Norman and his operation, and have a facility there that will be beneficial to all of us as a community.

Chairman Annas: [to John Douglas] Do you have any further comment?

John Douglas: [to Norman Greig] I just have one further thing. Since there are only six of us here, and we are a seven member board, so my question to you is in a situation like this, you might want to ask the Chairman to hold off on any vote until the next meeting, until all seven of us are here. Or you may ask the Chairman to go ahead and see if there is a motion.

Norman Greig: My only request is that you take the three variances separately.

Chairman Annas: We are. But I wanted to bundle them, just for discussion. I think getting all seven members here is a rare occasion.

John Douglas: If you saw the snow in Albany tonight, you would understand why Mr. Ross isn't here.

Chairman Annas: I'm just saying that if you look at the history of this Board – having seven members here is a rare occurrence. Ok, are there any other comments from the Board?

Jim Hegstetter: One of the questions I did have, I thought the regulation [stated] it was only to serve the inn [guests]. Or is it for the outside [non guests]? I talked to Fennell [the Town Building Inspector] about that.

John Douglas: No, what it says here is [section] 143-93b [of the Town Code] states an inn may provide dining facilities open to both its guests and the general public, as an accessory use.

Jim Hegstetter: So if we go to eighty, it's a general inn?

John Douglas: It's a general inn, no matter what. The remainder of [part] b states the total number of seats in its dining room, or rooms, shall not exceed thirty in the AB and RD3 districts.

Trilby Sieverding: Can I just add something? It also states the minimum lot size shall be five acres for such an inn. We are talking here about ninety [acres] here.

Chairman Annas: Do we have a motion, let's deal with the first one. The application for an Area Variance for an Inn with an eighty seat restaurant. Parcel limits the number of permitted uses. We'll deal with the permitted use issue first.

Trilby Sieverding: Permitted use?

Chairman Annas: Yes, right now it is permitted one Special Use Permit. So shall we move to make an area variance for allowing an additional Special Use Permit on the property?

Trilby Sieverding moves to grant a variance for more than one special use on the parcel, in the ABD, due to the large size of the parcel. John Douglas seconds the motion. All are in favor.

Appeal 14-10, Norman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39 C limits the number of Special Permitted uses to 1 (one) in the ABD zone.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812.

Chairman Annas: We will move on to the second one [Appeal 14-11] dealing with ingress and egress onto a [Town Road instead of a] State Highway. Do we have a motion for that?

Trilby Sieverding: Let's just make sure we are talking about the right thing.

Chairman Annas: That one affects the size of the inn.

Trilby Sieverding: The number of rooms?

Chairman Annas: Yes. He can do ten rooms on that parcel [with ingress and egress] on a town road, but 16 rooms [with ingress and egress] on a state highway. To get 14 [rooms], he has to

traverse his property to Route 9, or get the Variance. [There is discussion among the Boardmembers regarding the variance for 14 or 16 rooms, the maximum permitted for inns, by law]

Would anybody like to make a motion on this one?

Trilby Sieverding: I'll make a motion, but maybe compromise on the size. Maybe we don't have to grant the full amount.

Chairman Annas: This is to have other than a ten room [inn], basically on a Town Road.

Trilby Sieverding: So the issue at hand is whether we grant a Variance for additional rooms, and still be just on the Town Road.

Jim Hegstetter: But the maximum is sixteen rooms.

Trilby Sieverding: What I am saying, what I would like to submit a compromise of some sort – something we think [is reasonable].

Chairman Annas: A compromise? Trilby Sieverding: In the number of rooms.

Jim Hegstetter: You can do that. You can recommend a lesser number.

Chairman Annas: Let's jump to the third one [Variance], and come back to that one – not deal with the number of rooms first. The third one deals with the restaurant seating. Formulate however you want your motion. We spent a lot of time on the ABD and now, the first time it is tested, we are greatly expanding it.

Trilby Sieverding: I would make a motion to grant the variance, allowing, I would say, a fifty to sixty seat restaurant, as opposed to the eighty. Something smaller. Can we have a discussion as to what we think is reasonable?

Chris Carney: [and Jim Hegstetter] We think forty would be the max[imum number for restaurant seating] under interpretation of the current law, which is the

Jim Hegstetter: The numbers that were presented tonight about how large [some local] restaurants in the area are. I'm taking into consideration some of the people that already have restaurants and comment about what they [attendees of the Public Hearing] feel would be reasonable.

John Douglas: So you're saying forty, Jim, and Chris?

Jim Hegstetter and Chris Carney: Yes.

Chairman Annas: I want to note for the record that the probably the largest seat restaurant in Red Hook, which is the Roadhouse, is out of business. And what I believe to be the smallest seat restaurant, Me-Oh-My Pie, is soon to be out of business. They've got two weeks left.

Nicole Gill: Can I just say why? They have doubled her rent recently.

Chairman Annas: Yes, I know. I find it interesting that all the discussion to draft these ordinances, let me go back three or four years, [that they] have been accepted. And now the very first one is tested to do a great expansion on it.

Trilby Sieverding: You know I go back to the fact that we are looking at the size of a building. First of all it's a historic building, and I think it's great that it has been preserved. And now its life can be extended through some expanded use. I think it will look great.

Chairman Annas: That's an opinion. The size of this [operation] would make it a primary business, not an accessory [to the farm operation].

Trilby Sieverding: Alright, so a ten thousand square foot building on a ninety-two or three acre parcel, certainly would warrant a greater capacity of clients, customers or a Me-Oh-My-Pie, or a small roadhouse.

Chairman Annas: I agree. Why wouldn't this business be in more of a commercial district then?

Trilby Sieverding: It's allowed in an Agricultural Business District.

Chairman Annas: Not that size.

Trilby Sieverding: So that's what we're talking about is the size, right? That's where I say the size of the parcel and the size of the building warrant an expansion over these rules – these laws that were written and really haven't been tested much. And obviously there wasn't a lot of thought that went into considering size of parcel in writing it [the law]. They are talking about an inn being on five acres.

Chairman Annas: I don't see what the size of the parcel has to do with the size of the structure. The structure is going to be all in one spot on the parcel. What does the size of the parcel have to do [with it]? If it were a five acre parcel, it [the structure] would still be the same size, in the same spot. What difference does it make?

Trilby Sieverding: There is a lot of open space around it.

Jim Hegstetter: The use variance changes it considerably. You are talking about eighty [seats for the restaurant] up from thirty. That's a significant difference in the impact and the capabilities of what that [the structure] can house. And what's going to be surrounding that? Are you talking about events booked every weekend? I'm all for business, I'm very pro-business. I have no problem with that. I'm just thinking of the impact. Nobody came here tonight for [in favor of] putting this in. Not one person, aside from Ken, I understand there's a relationship, fine. That's not what it's about. I want to hear somebody talking in support of it, one neighbor, just one. I haven't heard anybody – there's a lot of concern here. We have to take into consideration the concern[s] of the people who live here. It's [the proposed inn and restaurant] is for the community, I understand that. It's a community based decision for us. Think about that. That's my thought.

Trilby Sieverding: I guess one of the things we consider is what is the impact to the landowner, is it outweighed by the impact to the neighbors?

Chairman Annas: It's [the restaurant] is allowed as [an] accessory to the farm. From the size of this business, this could be the primary business, not the accessory business.

Trilby Sieverding: There are multiple parcels here, right?

Chairman Annas: [We are] looking at something that is awfully large

Trilby Sieverding: I'll continue with my motion. I make a motion to grant a Variance allowing a fifty seat restaurant, based on the size of the building, the size of the parcel.

Chairman Annas: Alright, can we get a second on that?

John Douglas: I'll second that. [The Board does not vote at this time]. And I'll state that Norman asked for eighty [seats], and Chris and Jim said forty, and what Trilby has suggested, and I have seconded is a decrease from eighty to fifty, which is minus thirty, and an increase of exactly ten seats from what Jim and Chris advocated. If you think about it, ten seats – how many [more] cars are you talking about? Let's say two people per car, that is four, maybe five cars [more] at the restaurant. I don't think that would make a substantial differential at all, in my mind – between fifty or forty [seats]

Chairman Annas: [to Trilby Sieverding] Are you going with fifty because it's less than eighty? What if the application were for a hundred and twenty seats, would you have backed it off to eighty? I'm only asking that logic prevail.

Trilby Sieverding: Well, I think to make a viable business, I've always thought the way the law was written it says, you have expanded rights with your farm operation, but it's really not enough rights to allow you to succeed.

Chairman Annas: Why didn't they do eighty seats in the first place?

Trilby Sieverding: I don't know

Chairman Annas: Well, I think you need to consider that there was a reason for that. There were a lot of people who discussed that for some period of time. And for us to just say, willy-nilly, that the hell with that, we'll allow you to do what you want to do.

John Douglas: You've compromised on stuff before

Ken Anderson: Well I think there is an economic area that Norman has looked at – what's economically feasible to run this operation. You know, you can't – we're tossing numbers around. What if we approved ten? It's probably not economically feasible to operate the business. Norman probably has some numbers in mind as to the minimum number of seats that he would provide to make it feasible for him, economically, to go into the business

Chairman Annas: Do we have any obligation to offer satisfaction to the neighbors around this place? Are we obligated to offer them any satisfaction whatsoever?

Trilby Sieverding: Well, I know that the landowner is entitled to land rights, and I know that he is asking for variances. These are uses that are allowed under the law. Now the question is about expanding those uses. To what extent would the Board support that?

Chairman Annas: [to Trilby Sieverding] Would you support having this next door to your place?

Trilby Sieverding: Yes, I would, because my land rights were taken away too. So I'm sympathetic. You can't take people's land rights away without compensation. It's unconstitutional. It represents a taking. You have to give them some kind of compensation in return. The compensation that was promised here is expanded rights to farming, as a sort of new farming, whether it's a brewery or a

Chairman Annas: I thought the purchase of development rights [provided that compensation]

Trilby Sieverding: That's not available to everyone. That's not a given. The Town's not buying development rights anymore. [John Douglas concurs.] So that's not always an option. It's not something a landowner has to do either.

John Douglas: Even if you buy developmental rights on the property, you still have to pay taxes, Nick. [You] still have to support it, or have it support itself, somehow. [He speaks of conservation easements, and the fact that there is still a cost associated with carrying a given farm.] [He also speaks of the history of the Town purchase of development rights from farmers and large landowners.]

Jim Hegstetter: [Eighty seats is] three times the allowable number if we go to ninety rooms we are just taking the law [the permitted number of seats] and multiplying it by three. I think fifty seats almost doubles it. Forty[seats], I thought was reasonable. You're making a motion on behalf of fifty.

Trilby Sieverding: I am, going by the size of the building, the size of the parcel, the amount of open space around it. I just think you couldn't make it profitable, or make it look like it made sense. [Otherwise] it's too small – a little restaurant in this big building. It just doesn't sound like it would work. I'm thinking about the economics more than anything.

John Douglas: He wants to readapt the whole use of the footprint of the building, Jim. Norm, could you come up and show us your blueprint please?

Chairman Annas: No, it's closed.

Jim Hegstetter: That part of the meeting is done

John Douglas: What he proposes is a readaption of the building, staying within the footprint of the building.

Jim Hegstetter: So why don't we go ahead and make a motion.

Chairman Annas: The motion has been presented

John Douglas: What we could do, if Trilby agrees, is make an additional part of that motion, where Norman would have to abide by [Chapter]143-93c. It talks about the nightclub with the music. And we make that a part of the Variance, that he would have to abide by that.

Trilby Sieverding: He would have to abide by it anyway.

John Douglas: The reason I state that is, so that he couldn't come in later, down the road and ask for a new Variance, due to that section. It would be part and parcel with this Variance.

Jim Hegstetter: You're losing me there on that one.

John Douglas: This is just a suggestion, if Trilby agrees, we could do that.

Trilby Sieverding: Yes, we could do that, so that the inn may not operate as a night club, but it could operate as a fifty seat restaurant. That is my motion.

Chris Carney: To your point, Jim, there is nothing [in the Town Code] that says he couldn't operate an inn and have live music. He wouldn't be operating as a night club, that's what the statute says.

John Douglas: Yeah, and then, if you read the definition of Night Club, Chris it's on page 143.2.61 A drinking establishment which includes either an area in which patrons may dance, or provide live entertainment by more than a single instrumental, musician or vocalist, and that's my point. He couldn't run it with music, basically.

Chris Carney: He couldn't operate as a Night Club. I don't know if we're derailing from the subject at hand, here. I think the issue is whether he wants live music, and more than one musician in there, right?

Trilby Sieverding: If we make a motion to grant the variance for a fifty seat restaurant, [as defined by section 143-93c [of the Town Code], he must abide by it. No night club, but a fifty seat restaurant.

Trilby Sieverding: The issue at hand is a fifty seat restaurant – more seats than are allowed.

Chris Carney: Then you don't need to include this other stuff at all, I don't think.

Trilby Sieverding: [It's] not really necessary, if it's [already] required by law.

Chairman Annas: Except that John made the point that further down the road [he could request a new Variance]. Right now he'd have to abide by that ordinance, but down the road, he may come forth and ask for a Variance. John's trying to prevent that. So you might want to consider [including it].

John Douglas: What it is, is a stipulation that he can't do that. Otherwise he could come in, and you'd have reopen up the whole Variance issue, and I don't think you want to do that.

Chairman Annas: [to Trilby Sieverding] You put your motion together the way you want.

Trilby Sieverding: Ok, I'm going to state it one more time. I move to grant a Variance for a fifty seat [restaurant] versus the thirty seat [restaurant], written into the code.

Chairman Annas: [to John Douglas] Do you still second that?

John Douglas: Yes, I'll second it.

Chairman Annas asks for a vote. Trilby Sieverding votes yes. John Douglas votes yes. Ken Anderson votes yes. Chairman Annas votes no. Chris Carney votes no. Jim Hegstetter votes yes.

Chairman Annas: That is four of six votes in favor. The Variance is granted.

Appeal 14-12, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. **Section 143-93 B limits the number of seats in an Inn to 30.** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812

Chairman Annas: Ok, let's do the third one. Actually, the third one [Variance Application] now, that's interesting [the Variance we just granted] makes it almost moot.

Jim Hegstetter: It does.

Chairman Annas: Yes, because the third [Variance Application] is to go to 14 rooms. So, Trilby, do you want to make that motion to grant the fifty seats?

Trilby Sieverding: Are you talking about [Variance Application] 14-11?

Chairman Annas: No 14-12.

John Douglas: We just did that one.

Chris Carney: That was the one with ingress and egress [onto a State Road].

Chairman Annas: Oops, I'm sorry.

Trilby Sieverding: We did [Variance Application] 14-12, we are talking about [Variance Application] 14-11 now. Reason for Appeal – number of rooms.

Chairman Annas: To go to 14 [rooms], he needs to get a waiver on the [ingress and egress on a] State Road [requirement].

Trilby Sieverding: Well, in my mind the consideration there for allowing a Variance would be the fact that road [Pitcher Lane] is open on two ends. You come in from [State Route]9G. You could come in from [State Route] 9. It's straight.

Jim Hegstetter: You'd have to come in from Linden Avenue [to access Pitcher Lane from State Route 9G].

Trilby Sieverding: But you can easily get there from [State] Route 9G.

Chairman Annas: Ok, do you want to [make a motion]?

Trilby Sieverding: Yes, I make a motion to grant the Variance to allow for sixteen rooms.

John Douglas: [interrupting] No, it's fourteen.

Chairman Annas: He's asking for fourteen.

Trilby Sieverding: It's not written on here [the Variance Application], fourteen rooms versus ten.

John Douglas: I'll second it.

Ken Anderson: Are you talking about sixteen rooms?

Trilby Sieverding: No, fourteen rooms, versus the ten [rooms, permitted for an inn, in the ABD] in the [Town] Code.

Ken Anderson: Shouldn't that be included along with the fifty seat restaurant.

Trilby Sieverding: It's a separate Variance [Application].

John Douglas: There's three different [Variance] Applications.

Chairman Annas: Alright, [is there] any comment [from the Board]? If not, Trilby, how do you vote?

Trilby Sieverding: I vote in favor of the Variance to fourteen [rooms].

John Douglas: Yes. Ken Anderson: Yes. Chairman Annas: No. Chris Carney: No. Jim Hegstetter: Yes.

Chairman Annas: That is four of six votes in favor. The variance is granted.

Appeal 14-11, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39A requires egress and ingress on a state road.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812

**PUBLIC HEARING (continuation from earlier in the present meeting)**

Appeal 14-08, Douglas and Talea Taylor application for an interpretation of the determination of the Building Inspector denying building permit #2014:0073 be revoked pursuant to Section 74-5 K Fire Prevention and Building Construction, of the Code of the Town of Red Hook, siting mobile home was illegally placed on the Historic Hudson Valley property, i.e., without a valid building permit. The applicant's property is located at Montgomery Place Orchards, River Road in the Agricultural Business District, Tax Grid #6173-00-520145.

Chairman Annas: We're going to go back to our first one – the continuation of the Public Hearing for Appeal 14-08. Are there any comments?

Christine Chale: Did you start the Public Hearing before I got here?

Chairman Annas: Yes. We did.

Christine Chale: So what happened, in a nutshell?

Chairman Annas: Here's what happened the legal counsel for Doug and Talea [Applicants 14-08] presented us with this [hands her packet of papers]. I asked him to summarize [it] and he touched on part of it that deals directly with our findings here.

Christine Chale: I'll read it, but it's completely off the point.

Jeffery Carter:[residing at--] I was not here for the pre-Public Hearing so I'm going to briefly add a couple of comments about the continuity and importance of the contributions of the farm workers at Montgomery Place. I have been there since 1972, been through the whole restoration of the Sleepy Hollow Camp, with HHV. I've seen three generations of camps at Montgomery Place: The original one that came down, the camp that HHV built for the replacement. I just want you to see the contribution that these men have made to the economy, the vibrancy of the neighborhood cannot be underestimated. I don't want to see an X on that Montgomery Place [indicates the bicentennial quilt displayed in Town Hall, emblazoned with historic properties in the Town]. [I don't want] Your Board, acting with full legal ramifications to be the first to put the X on that [indicates the quilt].

Chairman Annas: Anybody else have anything they want to say to this, regarding this Application?

Ken Migliorelli: The zoning law states that farmers can have trailers, correct?

Chairman Annas: That's correct.

Ken Migliorelli: And I understand there's a situation here with the owners of the property.

Chairman Annas: And you understand that situation, correct? That's the owner [who] objects to it.

Ken Migliorelli: Right. Where's the common sense, coming from the owner? You know, all the farms that I've known.

Chairman Annas: We don't ask for common sense, here.

There should be common sense from the owner, because all the farms I know - we need farm labor housing. Mobile homes are cost effective for us to house our workers. So I don't understand that - why it would be a problem to house the workers on the farm. It's been there for decades, and I can't understand why it can't continue. Down the road, twenty thirty or forty years from now if they decide not to have a farm there, let's say, just remove the trailer. It's as simple as that.

Chairman Annas: I wish it were as simple as that. I don't think it is.

Talea Taylor: I just want to say one thing myself. You [to Jim Hegstetter] had said something about the neighbors, that you appreciate the neighbors response to things. I just want to say you [ZBA] did send letters out to all of our neighbors. And I don't think one person has said anything against the migrant camp - that it's even visible because one of the things they said [HHV] was that migrant workers would take away from the experience of people visiting HHV.

If the neighbors didn't even know the camp was there, I don't see, I just think that says a lot to the claim. I just wanted to raise that issue.

Chairman Annas: [to Christine Chale] Have you decided whether we can go on with this?

Christine Chale: You want to make sure you hear all of the comments [from] people here.

Chairman Annas: Are there any more?

John Lyons:[attorney for HHV] I want to be heard before you decide to close the Public Hearing, before you consider doing

Chairman Annas: Please restate your name.

John Lyons: My name is John Lyons, and I am the attorney for the property owner. From the time since the [beginning of the Public Hearing] when we first talked about this, I have had a little opportunity to look more at the submission that Mr. DuVall put in. I just want to address it briefly and then make a request. With regard to the issue of jurisdiction, he's claiming in his letter that the Board does not view itself as the sole decider in the question of whether

Chairman Annas: Wait, who's claiming that?

John Lyons: Mr. DuVall is claiming in his letter that Ag and Markets Department does not view itself as the sole decider of the issue of whether or not local regulations constitute an unreasonable restriction on farming. The material he submitted to you does not support that claim. In fact the material he cited actually supports the arguments that I made to you in the submission that I handed to you on the last night I was here [November 12, 2014]. The Provision that he quotes, that I addressed earlier, that says farmers should exhaust all local, administrative remedies, and seek, for example, certain permits and exemptions, available under local law, [such as] Area Variances, and I mentioned to you earlier, that what that's saying is that Ag and Markets is saying that bringing a Petition to Ag and Markets to say that a local regulation is unreasonable, should be a last resort. You should try, as a farmer, to comply with local regulation first. And then it says you should do that before the Department [of Ag and Markets] reviews the administration of local law. That's the Ag. and Markets Department, not the locality, that evaluates the reasonableness of a specific requirement or process, as well as the substantive requirements imposed on the farm operation. The Department [of Ag. and Markets] evaluates that. That goes to what I've been saying to you last week, which is that the question of whether there is an unreasonable restriction on farming is within the province and jurisdiction of the Ag. and Markets Department. The last thing I want to leave you with on the issue, is going back to Exhibit F of submission [on November 12<sup>th</sup>, 2014], which is guidelines to review local laws affecting farmworker housing – and this is just to address a comment that was raised by Mr. Anderson a little bit earlier – and I'll just quote from that document. It is an Ag and Markets document.

“The degree of regulation of Farmworker Housing that is considered unreasonable depends on the number of units, the size of the structures, the complexity of the housing to be provided. A requirement to provide a permit is generally not unreasonable.”

And I would remind you that that is really what we are talking about here, which is simply the Building Permit requirement. I would like the opportunity to put these argument in written form,

and submit them for the record. I promise to do that within three pages and get it to you by the end of next week, so that it can be part of the Board's record. As long as you're not going to be accepting further comment from the Applicant, that would put you on track to be able to issue your decision at the next meeting, unless you decide to decide tonight.

Christine Chale: Mr. Chairman, if you decide to leave the record open for a period of time, you can leave it open for a period of time for the submission of written comments. You wouldn't take comments, with all due respect, from one party and not the other.

John Lyons: If we try to do that, we'll just go on forever.

Christine Chale: I understand, but if you're asking for the opportunity to submit comments, and the Board agrees to that, for a period of time, to submit written comments, after the end of the Public Hearing, then you would need to open

Jim Hegstetter:[interrupts] The Public Hearing?

Christine Chale: No, you would not need to open that. It's not unusual to leave a written comment period open after closing comments, at the close of the Public Hearing. No more Public Hearing. The Public Hearing itself is closed, but you leave that written comment period open. You could choose to do that for a week or ten days.

Chairman Annas: We can't vote [however] until that [written comment period] is over.

Christine Chale: You would not vote until after you review the comments that [were] submitted. You take your decision, based on those comments.

John Douglas: I have one important question. Did the parties meet to discuss this issue [as I recommended at the last meeting]?

[Both attorneys reply "No".]

Doug Taylor: [to John Douglas] Well, John, I did meet with the CFO [of HHV] He stopped by the house, and we talked for about an hour and a half but we came to no conclusions about anything. The trailer issue was not discussed. We said we thought we should just let our attorneys handle the problem. So, we talked about a lot of things, but the trailer situation, he did not want to discuss it.

Jim Hegstetter: Has anybody driven out to see where this trailer is? Have they looked at it?

John Douglas: I know where it's located, but have I seen the new trailer? No.

Jim Hegstetter: I drove out to it. It is pretty well hidden. I just want to make a statement, that's it.

Richard DuVall: If you're traveling south on [Route] 9G there is about a third of a second that you can see it, if you know what you're looking for.

Jim Hegstetter: I did drive out there.

John Lyons: The question is not what it looks like.

Jim Hegstetter: I understand.

John Douglas: I know exactly where it is. If you don't know where it is, you won't find it

Ken Anderson: What is the owner's position on this whole issue? They've stated that they don't want the facility there, have they softened any on that? Have they changed their mind at all?

John Lyons: No, they don't want it there and they don't offer any discussion on a reason why.

Ken Anderson: In my opinion, when you submitted the first Application [for a Building Permit]. It is my understanding that a signature was required on the Application to the ZBA [did you sign it?]

Doug Taylor: I did not put my name on it, I wrote Montgomery Place Orchards. The reason I did that is knowing that there is a lot of confusion with HHV, Heritage, Scenic Hudson. I knew if I put Montgomery Place Orchard, everyone knows where it is, and I thought that was what they really needed to know.

Ken Anderson: Mr. Fennell stated that the trailer should be removed. I believe it's his position

Doug Taylor: After HHV contacted him several times

Ken Anderson: We've got ourselves a position that we as a board take. Are you going to have to settle, to agree, with the landowner?

Doug Taylor: Will I have to agree with them?

Ken Anderson: Go along with their wishes. You have a contract with HHV?

Doug Taylor: Well, we have something, I'm not really sure what it's called.

Richard DuVall: That's part of our point here. What's brought us here is the dispute between the owner and the farmer. That doesn't make it a zoning dispute. They have a license, it's part of our Application, a lease, a license – they're there under an agreement that's been in place for a long time. I would suggest that this Board is not the best place to sort that out.

John Lyons: It is. The reason it's a zoning dispute is because your law requires that the owner sign an affidavit giving permission that the Application [for a Building Permit] be submitted. That didn't happen here. That's what makes it a zoning dispute.

Chairman Annas: So where do we go from here?

Jim Hegstetter: I think that we have to read the decision.

Christine Chale: You had a request to keep the written comment period open close the Public Hearing, so you can discuss that. To keep the comment period open for a time, if you are prepared to close the Public Hearing. That's the point you're at right now. You have to decide if you're going to close the Public Hearing.

Chairman Annas: Well I can close the Public Hearing.

Christine Chale: Well your Board needs to vote [on it].

Chairman Annas: That's what I'm saying. We can do that and close the comment period too. And get on with the issue at hand.

Christine Chale: You can. You have to have reviewed all of the information [to close the comment period].

Jim Hegstetter: Let me ask this [at large] is there anybody else who has any commentary on this?

John Douglas: Are there any more comments from the public? If not, I will make a motion to close the Public Hearing. John Douglas moves to close the Public Hearing. Jim Hegstetter seconds and all are in favor.

Christine Chale: You have also been asked to leave the comment period open. For written comments to the Board.

John Douglas: I move that we deny the request for more written comments of any length and any period of time.

Jim Hegstetter: Hold on a second, I want to understand that.

John Douglas: It just keeps going on and on. It's one issue really. How much more voluminous information are we going to read about the same subject?

Chairman Annas: None, John. Just a moment. Do we need an attorney client conference here to [discuss keeping the written comment period open]?

Christine Chale: I mean I wasn't here earlier

Chairman Annas: Folks, if you can, we're going to take a few minutes here. He moves that the Board go into Executive Session. Jim Hegstetter seconds, and all are in favor.

Chairman Annas: [upon returning from Executive Session] We have closed the Public Hearing, but have a motion to accept written comments for seven days, not counting today.

Jim Hegstetter moves to accept written comments for seven days, not counting today. Trilby Sieverding seconds, and all are in favor.

Chairman Annas: The written comment period closes on 12/18/14. You are first on the docket for the next meeting on January 14<sup>th</sup>, 2015. We are not going to vote on this issue until we have had time to read the latest briefing.

Chairman Annas: Ok, let's move on to the next item.

Christine Chale: Do you need me for this, Nick, what's this issue? It's just an Area [Variance]?

Jim Hegstetter: Go get some Excedrin.

Chairman Annas: No. We're good.

## **PUBLIC HEARING**

Appeal 14-13, Fred Delgrosso application for an area variance to place a pre-fab storage building, 14' x 24'. Section 143-18 (A)-2 requires a side yard setback of 20'. Applicant is requesting a 1.9' side yard setback. The applicant's property is located at 132 Williams Road in the RD3 zoning district, Tax Grid #6374-00-899356

Chairman Annas: Fred, do you want to tell us what happened there. I thought we [already] gave you a variance down to five feet.

Fred Delgrosso: The survey guy came. He was off.

Chairman Annas: Hold up. Before you go any further. I know John Decker [the surveyor]

Tracy Kellogg: [attorney for Applicant] We are not making any statements beyond the fact that the reality is that he cannot construct or move the slab because of the proximity to the septic field. So in essence he needs the Variance to locate the shed.

Chairman Annas: You did move the slab to get it away from the septic field.

Fred Delgrosso: No. I went by the marks that Decker put on the ground. Two contractors came and it was five feet off that mark. I called Decker before the concrete was poured. I called Steve [Cole], everybody who I had to call. Nobody showed up. Decker came after the concrete was poured. He said we have a problem. I was there on the property with Decker the first time, when I paid him and he did not use no camera or nothing. When he came back and said I had a problem. I have no problem, I said. And he pulls out a camera, with his girlfriend or his wife, and started doing the survey, he said I had a problem. I said I don't have no problem [and] I went over to the mark that he put on the ground.

Chairman Annas: Ok.

Tracy Kellogg: It's one portion of the [slab]. It's not the full side.

Chairman Annas: We have a copy of the survey.

Fred Delgrosso: [presents 2 letters from neighbors] I don't have copies, but these are from neighbors across the street. I sent them out to everybody.

Chairman Annas: These are copies.

Fred Delgrosso: No. I should have made copies.

Chairman Annas: Ok, hang on. Let me read both of these. This is the neighbor directly across the street, who is in favor of it [the Variance], and the party to the east of you? I don't know the names.

Fred Delgrosso: It's Miller. I told him. He said it was fine. I sent out [letters] to all of these [neighbors].

Chairman Annas: Alright. I'll read these into the record [reads from letters].

Chairman Annas: This is the lady across the street? Marion Burns?

Fred Delgrosso: That's behind me. He's at the back of my property. Amy Scott is directly across from me.

Chairman Annas: You said the guy behind you. Does he border Williams Road?

Fred Delgrosso: Yes. Some of his property, yes.

Chairman Annas: Who is it on Williams Road going east?

Fred Delgrosso: Tom? No. [It is] Mr. Burns at the back of my property.

John Douglas: He owns that corner, doesn't he?

Fred Delgrosso: He's on the other side of the street though.

John Douglas: On your side of the street going east [who lives there?].

Chairman Annas: I want to know what neighbor is 1.9 feet from the corner of that shed.

Fred Delgrosso: Mr. Miller. And I talked to him, and he didn't have a problem either.

Chairman Annas: And where's his [letter]?

Fred Delgrosso: I talked to him on the phone. He said he's busy. But he said he has no problem with it.

Chairman Annas: Ok, he hasn't sent us any letter? [He reads the other letter]. Is that across the street from you? The lady [Amy Scott]?

Fred Delgrosso: Yes.

Chairman Annas: So we have two of the most affected parties who have no objections and the other one hasn't formally objected to this?

Fred Delgrosso: I talked to him on the phone.

Chairman Annas: So we have received no objections.

Fred Delgrosso: He's a contractor.

Chairman Annas: Let's have a motion to close the public hearing.

Jim Hegstetter moves to close the Public Hearing. Chairman Annas seconds, and all are in favor.

Chairman Annas: Does somebody care to formulate a motion here?

John Douglas makes a motion to grant the Variance. Trilby Sieverding seconds the motion.

Chairman Annas asks for discussion.

Chairman Annas: The only thing I'd like to say, is if you look at the property, if you look at the proximity of the shed or garage that he plans to put up, with respect to the neighboring property, you've got the next fifty yards or so [that] is wetland, which is not going to be built on so even though the corner of his structure is going to be one point nine feet from the boundary, there's nothing on the other side.

Trilby Sieverding: There's no one in opposition, correct?

Chairman Annas: To our knowledge there are no opposing parties. They had their opportunity to [come forward]. Are there any further comments from the Board, if not, let's vote.

All vote in favor of granting the Variance.

Chairman Annas: Now don't screw it up this time.

Tracy Kellogg: Can we ask one question. How long does it take for you to notify the Building Department?

Chairman Annas: It'll probably be a couple of years.

Fred Delgrosso: [I would like it] as soon as possible.

Chairman Annas: [to Anne Rubin] How soon will you will you be able to get this to the Building Inspector?

Anne Rubin: Let's see. Probably by the middle of next week – that's when Jackie put it on the calendar.

Chairman Annas: [to Applicant] is a week alright?

Fred Delgrosso: yes. He [the contractor] asked me, and I said I'll find out as soon as I can.

Chairman Annas: Next item on the Agenda a [Review of] Appeal 14-09.

## **REVIEW OF APPEAL**

Appeal 14-09, George and Cathy Michael application for an area variance to place an accessory structure ten feet from side property line. Section 143-18 (A) states that no accessory structure shall be set back less than 20 feet from any lot line. The applicant's property is located at 8033 Albany Post Rd. in the B1 zoning district, Tax Grid #6373-00-145791

Chairman Annas: [to Applicants] I trust you're George and Cathy.

George Michael: The first thing in the material you have, there is two minor errors. The existing shed we have down as 14' x 20'. It is actually 12' x 20'. The square footage of the existing shed is 240 and the square footage of the barn-like structure we wish to replace it with is 576 square feet, not 596 square feet.

John Douglas: What are the dimensions?

George Michael: You should have it there. The dimensions of the existing shed are 12' x'20'. That's going to come down, and the new shed, actually it's more like a barn-like structure, you should have a picture of it there, if not, we can give you one, is going to be 20' x 24' and then a side potting shed off of it – that's 8' x 12'.

John Douglas: [to Anne Rubin] Did we get a schematic of this, Anne?

Anne Rubin: Yes.

John Douglas: I don't remember.

[The Board reviews the materials submitted by the Applicant]

Chairman Annas: What did you say the existing [structure's dimensions are]?

George Michael: It's 12' x 20'.

John Douglas: How high is the center of the existing building?

George Michael: The center of the existing building is 13'. The height of the building we wish to replace it with will be 18'.

Chairman Annas: So you're going from 16' to 18'?

George Michael: No. It will be from 13' to 18'.

John Douglas: You'll be able to put a car in there.

Cathy Michael: No, it's going to be for mowers and canoes and potting soil.

John Douglas: That's all good stuff.

Chairman Annas: An 18' ceiling for a potting shed?

[The Board and the Applicant further review the materials submitted by the applicant to identify in them, the structure which will be removed, and the structure that will replace it]

John Douglas: Is the present structure ten feet off the back?

George Michael: It is ten feet off the back.

John Douglas: So you want to replace [one with the other].

George Michael: Yes, all we want to do is put it [the replacement structure] back there. The problem right now is the offset [setback] - according to a B1 zone, it has to be 20' off the side. This was [the present structure] I'd say was put up [in the] early 60's. And it was placed ten feet [from the side lot boundary].

Trilby Sieverding: Existing, non conforming [use].

Chairman Annas: Did you put this up?

George Michael: No, actually Coral Allen had the house before us. He built the shed. The problem is, if we move the shed another 20' out [from the lot line], it will go over our septic and a B dry drain also. That's the reason we'd like to keep it where it is.

Trilby Sieverding: So you have an existing, non-conforming, with your zoning, probably and all you are doing is asking to increase the non-conformity, by increasing the footprint of it.

George Michael: Correct.

John Douglas: Actually the Variance is just for the distance from the lot line.

Trilby Sieverding: Well, you wouldn't need that if it's [grandfathered in?]

John Douglas: Well, you see it's in the B1. You have got to be 20'.

Trilby Sieverding: And if it's already existing? It's already 10' from the line.

John Douglas: I understand that.

Cathy Michael: [It is] our understanding that was when it was built, the regulation was 10', and then when they changed the zoning.

Trilby Sieverding: I haven't read the rules on that, but I wouldn't think you would have to come here, except for the fact that you are increasing the non-conformity. You're not making it any closer to the lot line.

[There is a brief discussion among the Applicants and the Board.]

Chairman Annas: They can do it either way. Either way we can give them what they want, and they chose this.

John Douglas: Does it have solar panels on it?

Cathy Michael: We were toying around with the idea.

John Douglas: Is it facing the right direction?

Michael Douglas: Oh yeah.

Chairman Annas: Ok, [are there] any more questions from the Board? [There is no response]. It looks pretty cut and dried. Do you have any objections to any of us coming out to look at the property? To get a sense of what we are reviewing.

George Michael: No

Chairman Annas: And who's going to build this? Is this a purchased structure?

George Michael: No, this is stick built. It's [going to be built by] John Micetti. He's a builder in Pine Plains, and I'm going to assist him. We thought we'd have John do it so it comes out to be nice.

John Douglas: I don't know, I've seen your work, you're pretty meticulous.

Chairman Annas: And the siding material?

George Michael: It's going to be 12" pine.

Cathy Michael: And a metal roof.

Trilby Sieverding: Is that board and batten I see on that sketch?

George Michael: No, it's going to be shiplap

Chairman Annas: Twelve inch [siding] exposed? Or is it going to be 12" with 10" exposed?

Cathy Michael: That I don't know.

[The Applicants and the Board review the material submitted by the Applicants, and discuss the exterior aspects of the replacement structure].

George Michael: [indicating a photograph] Here's a building in Pine Plains – that's basically what it will look like, except with the potting shed off the side.

Chairman Annas: With the cupola?

George and Cathy Michael: Maybe

Chairman Annas: [Would] that be within the 18' [height]?

George Michael: No actually, it would be 18' to the ridge.

Chairman Annas: Here's the procedure. You'll be here next month. We'll put you as the second guest on the docket. You're going to be after Doug and Talea [Taylor], so you better bring a sleeping bag. Hopefully we will wrap that one up next week. We closed the Public Hearing on that so it will only be Board discussion. We have to notify all of the neighbors within 300' of your boundaries by certified mail, and that's on your tab.

Anne Rubin: I have 18 of them. You got a letter from me, right? Saying that you needed to bring a check to the meeting.

Cathy Michael: I did [Hands Anne a check]

Anne Rubin: And this is your receipt. [Hands Cathy Michael the receipt]. You have many neighbors.

Does Norman's property come into that scope?

Anne Rubin: Let me look, I have a list of the neighbors here.

Chairman Annas: Where on Albany Post Road are you?

George Michael: We're on the west side of Route 9, across from the Cornucopia Deli and across from where Spring Lake Road comes in.

Chairman Annas: You Are on Route 9?

Cathy Michael: We are on Route 9.

[The Board discusses the immediate and surrounding area to the Applicant's property]

Anne Rubin:[to John Douglas] Here is the list of neighbors. No, that property is not on it.

Chairman Annas: Have you talked to the neighbors, especially the adjoining neighbors on this?

George and Cathy Michael: Yes.

Cathy Michael: He's fine with it.

Chairman Annas: The last time we heard that, we came in, and there was opposition like you wouldn't believe. So you'll be [having a Public Hearing] on January 14<sup>th</sup>, 2015. So what I would suggest is if you have any inkling that anybody would object to this – talk to them beforehand, so that we don't surprise anybody. Sometimes things go better when there is advance warning here.

Ok, we're going to move on, we may actually finish up tonight.

## **REVIEW OF APPEAL**

Appeal 14-14, Patrick Murphy application for an area variance to create an accessory apartment within a new, independent structure of 784 square feet of habitable space. Section 143-66.1 states that an accessory apartment shall contain a maximum of 650 square feet of habitable space. The applicant's property is located at 163 Hapeman Hill Road in the R3 zoning district, Tax Grid# 6372-00-875777

Debbie Murphy, one of the Applicants, introduces herself.

Chairman Annas: Do you want to present what it is you would like to do?

Debbie Murphy: We had a site visit from the Planning Board and the Building Inspector. So they did the accurate measurements of the first story.

Chairman Annas: This is a new building that you [have put up]?

Debbie Murphy: No, actually we lived here while we were building our new home. So this was our residence. What we did was, this is what we are going for [shows the board a rendering]. This was a carport that we enclosed in, for a little bit of extra space - it's a three season room. So it's over by 134 square feet, and that's what we're going for a Variance for.

Chairman Annas: This is a three season room?

Debbie Murphy. Yes. There is no heat or anything. It is a three season room.

Chairman Annas: Does it have windows in it?

Debbie Murphy: It does. [Applicant points out windows and a door to the Board on the rendering].

Chairman Annas: Ok, so it's not open to the elements.

Debbie Murphy: No.

Chairman Annas asks about a picture of another structure on the parcel.

Debbie Murphy: That's the home were in. This is what it was [Shows a picture of it and points out the carport – back here. We closed some of it off just for some extra room to store my daughter's toys. I did have a daycare so it [space] was just tight – we just built on a bit of extra space.

Chairman Annas: That thing you showed us is it?

Debbie Murphy: Yes. Finished.

Chairman Annas: What is it really? An apartment attached to a garage?

Debbie Murphy: That's my husband's shop [indicates a location on the rendering]. That's where we live.

Chairman Annas: This is not your dwelling? Did you have a floorplan of all of this?

Debbie Murphy: Yes. [presents it to the Board].

[Chairman Annas asks the Applicant for clarification of the floorplan]

Chairman Annas: So this is the thing that has the greater [than permitted] square footage.

Debbie Murphy: Yes. This is where we added on the three season room. [indicates on the floorplan] This was a long carport, and we enclosed some of it and that's the three season room – what we're going for the Variance for.

Chairman Annas: This is two stories?

Debbie Murphy: Yes.

Chairman Annas: You've already made this [non-conforming addition]?

Debbie Murphy: Yes.

Chairman Annas: You've already built it?

Debbie Murphy: Yes.

Chairman Annas: And now you're coming for a Variance.

Debbie Murphy: Correct.

Chairman Annas: That's not the way we like to do things.

Debbie Murphy: I know. I understand.

Chairman Annas: Let me ask you why you didn't ask for a Variance in the first place?

Debbie Murphy: I couldn't answer that.

Chairman Annas: Do you have any objection to any of us coming out onto the property?

Debbie Murphy: No.

Chairman Annas: How far are you? Hapeman [Hill Road.] runs down to [Route] 199?

Debbie Murphy: Yes.

Chairman Annas: And up Turkey Hill [Road.]?

Debbie Murphy: Yes. Spring Lake – Turkey Hill Rd.

Chairman Annas: Which are you closer to?

Debbie Murphy: We're closer to [Route]199.

Chairman Annas: About how far off [Route]199?

Debbie Murphy: About three tenths of a mile.

Chairman Annas: So basically what you've done, is not come here to seek a Variance, but come here to offer your apologies.

Debbie Murphy: Yes. Absolutely. I'm married to a builder. I guess he overdoes it sometimes.

Chairman Annas: Who's your builder?

Debbie Murphy: It's my husband. I didn't realize how much he went over. It's [an accessory apartment] allowed [at] 650 [square feet], but I guess he went over by 134 square feet.

Trilby Sieverding: Can you help? I'm totally confused as to what this is. Is it

Debbie Murphy: No, the carport went even further back, so he enclosed some of it in just to give us some extra room. That's the remaining carport, and he just stoned the pillars. [indicates on rendering, also indicates entrances and windows].

Trilby Sieverding: And what is this back here [on rendering]?

Debbie Murphy: That's the upstairs. [Discussion among the Board members follows]

Jim Hegstetter: Can I just ask a question before we go any further? What is it being used as now?

Debbie Murphy: It's an accessory apartment, for when my in-laws sell their home, we are hoping that they will move in with us – they won't live with us directly, but we're hoping that they'll live there on the property with us. Not my parents, his parents. That would be a different story.

Chairman Annas:[to Applicant] Do you know the procedure? Oh, and Jim, do you have any more questions?

Jim Hegstetter: I'm trying to understand. He started building this without going for a [Building] Permit?

Debbie Murphy: Oh, no. He got a permit. The whole house – he had all the proper permits. Nothing was deviated from the original foundation – it's just the slab. And then it was done, and we had all this room, this carport [in which] we could have parked two cars. It's a patio. But just because for us it's so tight of living space. I don't know how many square feet – like 592 square feet – so for us it was tight. And for awhile I had a daycare in the home, and just with the kids and all of the toys, and play area, it was just crazy. So he took some of that carport and closed it off, just so I could have more storage for toys and what not. So that was the reasoning for it.

Chairman Annas: Where is your house in proximity to this?

Debbie Murphy: [indicates on an aerial photograph] Well, you can't see it. It's here now. It wasn't built then but that's what it is now. It took us five years to build our main house, so he built this [the accessory apartment to the garage] for us to live in temporarily, so we could take our time building the house.

Chairman Annas: I understand taking your time, it took us six years to build our home.

John Douglas: [indicating the floorplan] Where does this door get into the first floor kitchen?

Debbie Murphy: It's not. It's [that door] the side. [Applicant indicates the ingress to the first floor kitchen on floor plan].

Chairman Annas: Is that structure occupied now?

Debbie Murphy: Yes, we have people living in it. A young couple is living in it.

[Board members Ken Anderson and John Douglas ask Applicant to indicate on the floorplan, the position of the garage in relation to the accessory apartment.]

John Douglas: Is it two bathrooms?

Debbie Murphy: It's one and a half.

Chairman Annas: [to Jim Hegstetter] Don't you live pretty close to it [the accessory apartment/garage structure]?

Jim Hegstetter: I have one entrance that is about 200' to 300' [away]. I had another one that I sold.

Debbie Murphy: That's the other one, the slab. This is heated with radiant, and no heat [indicates locations on floorplan]. And that part of it is what we used to build the addition.

John Douglas: So this is like a big garage[indicates on floorplan]?

Debbie Murphy: A carport.

John Douglas: The house is on the property, somewhere?

Debbie Murphy: Yes, we built our main house on the other side of the property.

Chairman Annas: Ok, you will be on the docket third, on January 14<sup>th</sup>, 2015. I would just advise you to talk to your neighbors, and let them know what you're after, so that's not a surprise.

Debbie Murphy: Sure.

Chairman Annas: You're aware that you're paying for the certified mail?

Debbie Murphy: Yes.

[She hands a check to the Board, and receives a receipt from Anne Rubin].

[The Board discusses the history of the permits on her property, with Debbie Murphy]

Trilby Sieverding moves to adjourn. Jim Hegstetter seconds. All are in favor.

