

PLEASANT VALLEY ZONING BOARD OF APPEALS
May 23, 2013

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on May 23, 2013 at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. A motion was made by Stephen Kish to appoint Board Member Edward Feldweg as the Zoning Board of Appeals Acting Chairman since Chairman John Dunn has been recused. The motion was seconded by Board Member Ronald Vogt. Acting Chairman Ed Feldweg called the meeting to order at 7:35 p.m.

Present: Acting Chairman Edward Feldweg; Board Members: Timothy Gerstner; Stephen Kish; Sharon Wilhelm; Robert Maucher; Kathleen Meyers; Ronald Vogt; James Nelson; Secretary: Maura Kennedy

Appeal #983 – Freedom Reigns Farm Use Variance

Grid # 6365-04-662125

Location: 383 Smith Road, Hyde Park

Application for kennel business, variance for parcel size

The agenda item for this meeting was Appeal #983, Freedom Reigns Farm Use Variance. Acting Chairman Feldweg opened the meeting by reviewing how this Zoning Meeting would be run, that the meeting would be open to public commentary, each person speaking would be sworn in and that all testimony is given under oath or by affirmation. Acting Chairman Ed Feldweg started reviewing the “Affadavit of Publication”, notification and receipt of mail to adjacent property owners. Board Members have visited the site and the Zoning Administrator will explain the issues.

The Zoning Administrator, Mike White stated that there were four variances. Two of the variances that were mentioned as requirements was that the parcel should be at least five acres and that the operation needs to be 100 feet from property lines. The Zoning Administrator stated that the Planning Board complied with the open meetings law. Mike White talked about the AMM test. AMM stands for Avoidance, Minimization, Mitigation; can variances be avoided; what are the minimum variances; what kind of variances and mitigation can we put on it?

Jen Brown of Jen Brown, Esq. spoke on behalf of her client, Miss Castellani, stating that Miss Castellani takes objection to the “stating of the operation of a kennel” for ten years Miss Castellani has been pet-sitting and it does not rise to the level of a commercial operation, far from a kennel. Mike White spoke about variances that should not apply: Code #98-35-Pleasant Valley Town Law states that “no facility shall be constructed”, to which Miss Castellani stated that she is not constructing anything, that the dogs are kept in her home and her home sets back 60 feet from the Hart property line, 40 feet from the front line and 20 feet from Goodwin property line. Jen Brown also stated that the applicant’s home is a private dwelling. Please consider that during the site visit, there

was no barking heard by the board members and that the following conditions were present:

- Limited to 4 dogs
- No odor of dog feces and dog urine
- Erected a stockade fence along the Hart property line that keeps the Harts' dogs away from the property line
- Constructed a stockade fence
- Asked that Mr. Dunn not be able to testify, especially since Mr Dunn's property is set back farther and nothing has changed in the last ten years
- Mr. Goodwin complained about his well, that if poop is left on the ground it would contaminate the well. The applicant went to the Dutchess County Board of Health and was told that animal refuse left on the ground will not contaminate the well. Letter from Dutchess County Board of Health was written therefore, Mr. Goodwin's concerns are not adequate.

Jen Brown started indicating that Mr. Goodwin had an abandoned fuel tank and was interrupted by Chairman Feldweg who noted that this comment was not relevant. Chairman Feldweg asked if there were any questions. Ronald Vogt asked if the lawyer read the Pleasant Valley code definition 98-103, Ronald Vogt read it-anything commercial-accepting cash it is commercial. Mr. Maucher asked about sales tax, kennel services are charged sales tax by Robert Maucher. Mike White said that the kennel definition is for the whole, we are going with the Zoning Administrator's interpretation. Mr. Maucher asked what the hatched area is? The applicant's attorney explained what the hatched areas are and Mr. Maucher said that the area extends beyond the house.

Annette Castellani, 383 Smith Road Pleasant Valley, NY was sworn in. Annette talks about when a dog comes in, if it is really early in the morning they don't go out, they go out at about 6:30 am or 7:00 am. She owns five dogs, two dogs are fostered which is her sole source of income. She states that this is a well needed service and her children grew up doing it. She also stated that Mr. Goodwin bought a house that had been foreclosed on twice. She said that Mr. Goodwin knew that she had horses and goats and his children used to play with them. Robert Maucher asked how many dogs she would take at one time and she responded that she would be like a daycare and take eight to ten overnight. Stephen Kish asked how many dogs she would take at one time and then he reviewed her mailing address and her property address. Edward Feldweg gave conditions of public commentary, the board will not tolerate any stupidity.

- Barbara Beckley and her husband of 376 Smith Road lived across from Mr. Goodwin's property stated that the fence in the front has helped with the barking, that the goats are left alone, limiting the number of dogs outside has helped, there are no signs, having dogs in the barn would be a disaster nor would they be easily monitored, no commercial property is wanted with thoughtful considerations.
- Patrick Hayes of 15 Fairmont Avenue Poughkeepsie, NY read a letter for Miss Castellani titled "Love to the Canine Family".
- Kelly Redl Hardisty of 11 Applegate Lane Hyde Park, NY stated that this is a difficult format and strongly suggested getting all players in the room and neighbors to create a compromise. She asks to get everybody in the room.

- Chris Hart of 395 Smith Road Hyde Park, NY is sworn in and he submitted a letter stating that the fence has created an echo and there is no agriculture or commercial laws to support a kennel. He also stated that there is no insurance on these dogs, restrictions are unenforceable, special use of a property requires 5 acres and they are dealing with a sub-standard lot already granted a variance for the horses. This was brought up by a court action. The people boarding their horses here do not live in the area and don't have to put up with the noise.
- Cindy Ramos of 394 Smith Road Hyde Park, NY lives across the street and disagrees with Chris Hart. She states that the fence has cut down on the noise, that the volume of cars and speed is not attributed to the pet-sitting business, and the dogs are not aggressive.
- Sandra Dunn of 984 Netherwood Road Hyde Park, NY is sworn in by Chairman Feldweg. John Dunn has given his testimony and she reads John's comments via letter. Sandra Dunn also read her letter.
Board Member Robert Maucher asked about the storage of waste, Jen Brown responded that the applicant has waste pick-up. Board Member Stephen Kish asked the Zoning Administrator what the decibal level was and the Zoning Administrator stated 60 decibals.
- Sandy Nasonowitz of 77 Martin Road Pleasant Valley, NY was sworn in and stated that she has used the pet-sitting service. She said that this service also rescues animals when no one else will. She has heard praises and untrue accusations. She states that Annette has mean-spirited neighbors, her business is not a kennel, the pet-sitting doggie bed & breakfast is a relatively new business and how many times does this matter have to be heard? What will really change? This is Annette's sole income - what about compassion? Mrs. Nasonowitz states that she has not heard barking and she has been there a lot. She said that Annette wouldn't intentionally hurt her neighbors, we can work towards noise concerns of the neighbors. Have a little compassion for Annette she has had to make countless concessions and copies. She asks for a compromise, put restrictions on Annette's business and that Annette will be mindful of them. This town needs to be a forward thinking town. The audience proceeds to clap and the chairman states that clapping will not be tolerated.
- William Miller of 29 Hart Drive Poughkeepsie, NY was sworn in and stated that traffic going to Annette's house is limited but the traffic on the street has increased. He stated that Annette is now cautious about receiving and dropping off of the dogs. He speaks on behalf of Annette as a customer and that they will respect the recommendations of the board. Annette has been there for her customers.
- Nanette Koch of 127 South Hamilton Street Poughkeepsie, NY was sworn in and stated that she is a customer and was a neighbor of Annette's. Annette was one of the most easy people to live beside of all the people she has met. She stated that she never had a problem on that side of her house, she hopes that the word compassion is used to allow variances when they are needed.
- Joan Carbonaro of 267 Hollow Road of Staatsburg, NY was sworn in and stated that she sympathized with the board but to exercise compassion. Regarding a person who buys a house that has a variance, a variance can be issued for a period

- of time that the owner is at that residence. She accuses board members of chuckling. She stated that if it was just “owned” dogs, it would be a different issue. There is no pet-sitting business law on the books, it is a new nuance and she hopes to see this as a service, it is not a kennel, Annette sleeps with the dogs in her bed. Annette is a dedicated, giving person and so are her children and she will work with the Board to come to a solution.
- Peter Nikolski of 32 Hart Drive Poughkeepsie, NY was sworn in and stated he was a customer of Annette Castellani. He stated that there are no other options that she is not running a kennel she is only dog-sitting. He stated that Annette is the only one who is compromising. Asked the Board to consider variances and put restrictions on.
 - Janet Thurston of 435 Smith Road Hyde Park, NY was sworn in and stated she has only been in the neighborhood for a short period of time. She stated that there is noise in the neighborhood and there are many animals in the neighborhood. She also stated that she fosters and relocates dogs but never more than one at a time. She feels that Annette’s dogs are not aggressive. When she was purchasing her home, she read the real estate clause. She stated that her animals make noise and she is in the rural agriculture district but her tractor makes noise, also. Birds are the biggest e-coli breeders, not dogs and dogs would contaminate other dogs.
 - Kristina Couron of Latifa Court - Pleasant Valley, NY was sworn in and stated that she rented the Goodwin’s house. She stated that she would never have tolerated anything that would disturb her or her kids. She also stated that everything is taken care of and that Smith Road is her favorite street. However, traffic is an issue but the area is very cared for.
 - Kristie Worrel of 16 Gretna Hill Road Pleasant Valley, NY stated that she takes her dog to Annette’s. The routine has changed as Annette maintains control and appeases the situation. She also stated that it is very quiet at Annette’s that when barking occurred, it was four to five barks and then it stopped. She has seen Annette go from a happy person to ridiculously scared by the town.
 - Joe Lomoriello of 400 Smith Road Hyde Park, NY felt that this is about zoning not about her status. He stated that there has to be seventy-five pounds of dog crap a week that dog poop is not the same as people poop. He objects to putting in a variance and changing his neighborhood.
 - Michael Goodwin of 379 Smith Road Pleasant Valley, NY was sworn in and stated that there are a lot of dogs next to him. There should be one hundred feet from his property line to the Castellani kennel. Mr. Goodwin then presented his house/parcel map for the Board to see. He stated that customers are coming in as early as 6:30 in the morning and that Miss Castellani does have a fenced in area but does not use this area that the dogs run free on her property and this is horrible to deal with. He stated that there is a Mercedes Benz in the garage. He stated there are other dog kennels in the area that people could bring their dogs to. He said that Castellani is expanding her business and he is not getting any sleep because there is quite a ruckus when the dogs are arriving. He feels that there is no room for dogs. Chairman Feldweg indicated that Mr. Goodwin had exceeded his time. As Mr. Goodwin was leaving, he stated that Miss Castellani still had goats in the yard.

- Christine Graner of 33 Madison Avenue Hyde Park, NY was sworn in and identified herself as Annette Castellani's daughter. She is an assistant at an animal hospital. She said that her mother enjoys fostering dogs and will only accept non-aggressive dogs. She requires fecal checks. She stated that her mother's neighbors have poison sumac on the fence. She takes her kids to visit the pets but they are not there all the time. She stated that the neighborhood is noisy. The Dunn's house sits far back and she has never seen them. Neighbors of her mother's have spoken favorably about her mother.
- Jo-D Demore of 159 Ring Road Salt Point, NY was sworn in and asked "what happens if perjury is committed?" the chairman responded "we don't commit perjury here." She stated that Mr .Goodwin's barn is falling down and that his property slopes down towards Miss Castellani's so the dog excrement could not possibly go onto his land. She also stated that Annette has arthritis and this dog business is her semi-retirement job. Annette is dyslexic and has problems with writing. She also stated that there was never any court action taken on this kennel, that it was originally reported via a complaint to the court by a disgruntled former customer of Annette's. This kennel is more like a doggie day care and socialization spot and this is much better than a kennel. There is 19,500 square feet for ten dogs in a great area set aside for the care of the animals. Annette put a "good faith" stockade fence up and removed a hay barn which is better than having a non-tax paying home. She stated that the pressure that this process has caused Annette has been alarming.
- David Castellani of 5665 Apartment 509 North Bergen, NJ was sworn in and identified himself as Annette Castellani's son. He stated that his mother was the greatest person alive, that she raised four kids as a single mom and put country before themselves. He stated that his mother is asking for a small variance to sustain herself, that this is not a kennel, define it any way you will that this business offers a service, a kind of second home for the dogs that will not get the same service from a kennel. His mother wants to make sure that dogs are treated the way that they should be that was the reason for the business. There is brush and weeds protruding on her side and a barn falling down on a neighbor's property. He stated that a \$15,000 car is not going to sustain her livelihood. Traffic has increased but not because of one dog business. He commented on the aggressiveness of dogs- how can a basset hound be aggressive? The dogs are screened. Fecal matter should not be an issue it would have to slope upward and as far as wells go, the wells should be modern wells and they are not susceptible to contamination of that kind.
- Crystal Wager-Shaffer of 184 East Meadowbrook Lane Staatsburg, NY was sworn in and stated that had previously resided on Smith Road for 27 years. She stated that the Castellani property was clean, that there was yearly vet checks and all the dogs were well cared for. She then stated that raccoon feces is more deadly than dog feces. She testified that she had her own pet-sitting business that has since closed down. She stated that kennels are horrible for dogs, dogs are evaluated and then merged into a pack. She stated that there is no habitual barking and 15 dogs is a manageable number and as far as the hay is concerned, the hay that is on the ground is from trucks trailering in the hay. What is the

difference between a kennel and a pet sitting business? She finds the animal noise soothing. She stated that bringing up the Mercedes Benz was ridiculous. Everybody needs to work together to come to a peaceful solution. This kennel is not going to be a detriment to the neighborhood. She also stated that there is no sales tax collected in this business.

- Kurt Worell of 16 Gretna Hill Road Pleasant Valley, NY was sworn in and stated that everyone needs to come together and resolve this issue. He agreed with the AMM test (Avoidance, Minimization, Mitigation). There needs to be compromise that times have changed and we need to work together to bring the Town of Pleasant Valley forward. Instead of being divided, let's unite. Who cares if it is considered a kennel and not a pet-sitting business, let's move the town forward.
- Pamela Lovinger of 181 Clinton Avenue Salt Point, NY was sworn in and she echoed what the last gentleman had to say. She stated that Annette helped care for her horses and Annette's is a special place not like a commercial kennel her place is more hands on. She stated that she hoped the board would grant a variance to Annette, that Annette wants this to work with thoughtful restrictions.
- Renee Audette of 191 South Grand Avenue Poughkeepsie, NY was sworn in and stated that she was a client of Annette's. She stated that Annette's place was like a sanctuary not a business. She said that Annette takes extremely good care of the animals and she is one of the most wonderful people she has met. She questioned why a barking dog is a bother and why is the dog poop an issue? Renee stated that she could not imagine not having Annette's place.
- Jen Brown, the attorney for Annette Castellani spoke and said that the Zoning Board of Appeals can impose conditions like limiting the number of boarded dogs and having the variance expire when the home is sold. Jen Brown also stated that section 266-B of the code has five criteria of continuing use.
- Annette Castellani asked to speak again and she thanked the board, people, family and supporters for attending the meeting. She said that this business was her life, her livelihood, her passion and that she would stick to the agreement of boarding only four dogs at a time, and thanked the board.

Chairman Ed Feldweg made a motion to close the public hearing and motion was seconded by Board Member Ronald Vogt.

Board member Robert Maucher made a motion to adjourn, continue and reconvene the meeting to 6/27/13 at 7:30 pm. All in favor, the meeting was closed.

The foregoing represents official minutes of the May 23, 2013 Pleasant Valley Zoning Board of Appeals meeting.

 Approved as read
 X Approved as corrected with deletions/additions

PLEASANT VALLEY ZONING BOARD OF APPEALS

June 27, 2013

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on June 27, 2013 at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Acting Chairman Board Member Edward Feldweg called the meeting to order at 7:27 pm since Chairman John Dunn has been recused from agenda item – Appeal #983..

Present: Acting Chairman Edward Feldweg; Board Members: Kathleen Meyers, Timothy Gerstner; Stephen Kish; Sharon Wilhelm;
Town Attorney: Audrey Friedrichsen; Secretary: Maura Kennedy

REFERRAL TO ZBA

APPEAL #983 - Freedom Rein Farm Use Variance

Grid: #6365-04-662125

Location: 383 Smith Road, Hyde Park (mailing address)

Application for kennel business, variance for parcel size and set back relief

Per application by Annette Castellani on behalf of Freedom Rein Farm to operate a kennel, seeking variances for size of property and set back relief, pursuant to the Code of the Town of Pleasant Valley, Chapter 98, Article IV: §98-35 A; § 98-42 K; § 98-43; and Chapter 70; § 70-2.

The agenda item for this meeting was Appeal #983, Freedom Reigns Farm Use Variance. Acting Chairman Feldweg opened the meeting by reviewing the agenda. The first item on the agenda was the Freedom Reins Use Variance application. The Acting Chairman asked the applicant if a special use permit application had been submitted with the area and use application. Attorney for the applicant, Jen Brown said that currently a special use permit had not been submitted. Acting Chairman Ed Feldweg said that this should have been brought up to the applicant before, and that a special use permit needed to be submitted by the applicant. Attorney, Audrey Friedrichsen representing the town, asked the board to make a motion to extend the applicant deadline and to also make a motion to adjourn the public hearing to July 25th. Acting Chairman Ed Feldweg made the motion, motion was seconded by Sharon Wilhelm, all in favor.

Chairman Dunn returned from recusal to preside over the remaining appeals.

Appeal #985 Chestnut Mart of Pleasant Valley, Inc.

Grid # 6363-04-555243

Location: 1413 Route 44

Area Variance Request for modification of an existing gas station canopy and installation of a new free standing price sign

Chairman John Dunn swore in representative for the applicants:

Scott Parker

Chris Gent

17 Rabbit Trail Road

2 Platt St.

Poughkeepsie, N.Y.

Poughkeepsie, NY

The applicant reviewed the current proposed sign permit and variance application. The Chairman asked if there was a referral from the Planning Board and also if there was a recommendation from Dutchess County Planning. The Planning Board had not given a referral since the applicant was supposed to go back to the Planning Board with their new sign modifications for interpretation. In addition, the referral from Dutchess County Planning had not come back yet with comments. Chairman Dunn made a motion for the applicant to go back to the Planning Board with their modifications and have the Planning Board make their referral based on that. In addition, the comments from Dutchess County Planning should accompany the referral. The Public Hearing portion of the meeting was adjourned until these two conditions have been met. Motion 2nd by Ed Feldweg, all in favor.

Jacqueline Torino

Grid # 6463-02-910721

Location: 96 Rossway Road

Area Variance Request for Existing Structures

Timothy Gates speaking on behalf of the applicant, Jacqueline Torino presented a site map with the requested variances. Chairman Dunn asked if the application had been before the Planning Board, and if a referral had been given. The matter had been before the Planning Board but no formal referral had been submitted to the ZBA. Based on that, Chairman Dunn requested that the matter go back to the Planning Board for Referral back to the ZBA. Motion 2nd by Sharon Wilhelm, all in favor.

The foregoing represents official minutes of the June 27, 2013 Pleasant Valley Zoning Board of Appeals Meeting.

____ Approved as read X Approved as corrected with deletions/additions

PLEASANT VALLEY ZONING BOARD OF APPEALS

July 25, 2013

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on July 25, 2013 at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Acting Chairman Board Member Edward Feldweg called the meeting to order at 7:33 p.m. since Chairman John Dunn has been recused from agenda item – Appeal #983..

Present: Acting Chairman Edward Feldweg; Board Members: Kathleen Meyers, Stephen Kish; Sharon Wilhelm; Robert Maucher
Town Attorney: James Nelson ; Secretary: Maura Kennedy

SPECIAL USE PERMIT - Freedom Rein Farm, Kennel

Grid: #6365-04-662125

Location: 383 Smith Road, Hyde Park (mailing address)

Application for special permit for kennel business, Pleasant Valley Code § 98, 98-35, 98-67, 98-69, 98-70

Application by Annette Castellani on behalf of Freedom Rein Farm to operate a kennel, and for area variances for size of property and set back, pursuant to the Code of the Town of Pleasant Valley, Chapter 98, Article III §98-11-Attachment 1, Article IV: §98-35 A & C; § 98-42 K; § 98-43; and Chapter 70; § 70-2.

The agenda item for this meeting was Appeal #983, Freedom Reigns Farm Special Use Permit. Acting Chairman Feldweg made a motion to open the public hearing on the Castellani Special Use Permit, 2nd by Boardmember Sharon Wilhelm, all in favor. Acting Chairman Edward Feldweg made a 2nd motion to adjourn this public hearing to the 7:30 p.m. August 29th Zoning Board of Appeals meeting, so that a Planning Board recommendation on this special permit might be received. Motion 2nd by Boardmember Steven Kish, all in favor.

Acting Chairman Edward Feldweg made a separate motion stating, “ I move to adjourn the date for deliberation and decision on the Castellani Area Variance applications to August 29, 2013”. Motion 2nd by Robert Maucher, all in favor.

Chairman Dunn returned from recusal to preside over the remaining appeals.

Jacqueline Torino

Grid # 6463-02-910721

Location: 96 Rossway Road

Area Variance Request for Existing Structures

The applicant, Jacqueline Torino presented her variance request to the board. Chairman Dun reviewed the Planning Referral to the ZBA for Appeal #984. After the presentation

to the board, Chairman Dunn asked if there were any additional comments. There were none and a motion was made to close the public portion of the meeting, 2nd by Board member Edward Feldweg. Chairman Dunn started the Resolution to grant a variance of 40' from right & 40' from rear for a barn. The Chairman noted that there were no objections from adjacent land owners.

Chairman Dunn made a motion for the Board members to vote on the foregoing resolution. All votes were affirmative.

Motion to adjourn was made by Board member Robert Maucher, 2nd by Board member Sharon Wilhelm, all in favor.

The foregoing represents official minutes of the June 27, 2013 Pleasant Valley Zoning Board of Appeals Meeting.

_____ Approved as read X Approved as corrected with deletions/additions

PLEASANT VALLEY ZONING BOARD OF APPEALS

August 29, 2013

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on August 29, 2013 at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Acting Chairman Board Member Edward Feldweg called the meeting to order at 7:30 p.m. since Chairman John Dunn has been recused from agenda item – Appeal #983..

Present: Acting Chairman Edward Feldweg; Board Members: Timothy Gerstner, Stephen Kish; Kathleen Meyers, Robert Maucher, Michael Schroeder, Sharon Wilhelm; Town Attorney: Janis Gomez ; Secretary: Maura Kennedy

SPECIAL USE PERMIT - Freedom Rein Farm, Kennel

Grid: #6365-04-662125

Location: 383 Smith Road, Hyde Park (mailing address)

Application for special permit for kennel business, Pleasant Valley Code § 98, 98-35, 98-67, 98-69, 98-70

Application by Annette Castellani on behalf of Freedom Rein Farm to operate a kennel, and for area variances for size of property and set back, pursuant to the Code of the Town of Pleasant Valley, Chapter 98, Article III §98-11-Attachment 1, Article IV: §98-35 A & C; § 98-42 K; § 98-43; and Chapter 70; § 70-2.

The first agenda item for this meeting was Appeal #983, Freedom Reigns Farm Special Use Permit. Acting Chairman Feldweg called the meeting to order at 7:30 pm.

Town Attorney Janis Gomez said that the applicant, Annette Castellani will not be appearing tonight.

Acting Chairman Feldweg read the Special Use Permit and Planning Board Referral into record. The Acting Chairman noted that he was in receipt of the Affidavit of Publication from the Poughkeepsie Journal dated August 23, 2013 and the Notification to Landowners dated August 14, 2013.

OPEN THE PUBLIC HEARING TO THE PUBLIC:

Acting Chairman Ed Feldweg asked if there were any comments from the general public.

Michael Goodwin – 379 Smith Road – was sworn in by Acting Chairman Ed Feldweg. He stated that his bedroom window is 10 to 15 ft. from the Castellani residence. There is consistent dog barking, early morning noise from cars dropping off the dogs. The dogs bark constantly when they leave their house.

Barbara Beckley – 376 Smith Road – was sworn in by Acting Chairman Ed Feldweg. She stated that Annette Castellani has been doing a good job keeping the dog barking to a minimum, she is doing everything that she can and hopes that the ruling will be fair.

Joseph Lomarello – 400 Smith Road – was sworn in by Acting Chairman Ed Feldweg. Joseph stated that he still hears dogs barking and that he can't believe the amount of dogs that are there on a daily basis.

CLOSE THE MEETING TO THE PUBLIC:

Motion by Board Member Timothy Gerstner to close public portion of the meeting, seconded by Board Member Steven Kish, carried.

Next Business:

Acting Chairman Ed Feldweg made a motion to approve the June 27, 2013 and July 25, 2013 minutes as corrected, seconded by Board Member Sharon Wilhelm, carried.

Attorney Janis Gomez noted that the board needs to act as a lead agency. Boardmember Timothy Gerstner made the motion to act as a lead agency, seconded by Boardmember Steven Kish.

Attorney Janis Gomez noted that there is a Negative Declaration that needs to be read into the record. Boardmember Sharon Wilhelm made a motion to enter the Negative Declaration, seconded by Boardmember Timothy Gerstner, carried.

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The **ZONING BOARD OF APPEALS OF THE TOWN OF PLEASANT VALLEY**, as lead agency in an uncoordinated review, has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Freedom Reins Farm/Kennel (Annette Castellani)
Area Variances and Special Use Permit

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The Town of Pleasant Valley Zoning Board of Appeals received an application from Annette Castellani, grid number 6365-04-662125, for area variances as follows: (1) for relief from Section 98-35 (A) of the Code of the Town of Pleasant Valley to allow a kennel on 2.39 acres of property where 5 acres is required (a variance of 2.61 acres or 52.2%); (2) for relief from Section 98-35(C) of the Code of the Town of Pleasant Valley to allow a kennel to be located 0 feet from both side property lines, where 100 feet is required (a variance of 100 feet or 100%). (3) for relief from Section 98-35(C) of the Code of the Town of Pleasant Valley to allow a kennel to be located 60 feet from the front property line, where 100 feet is required (a variance of 40 feet or 40%) and for a Special Use Permit to operate a kennel.

Location: 383 Smith Road, Town of Pleasant Valley, Dutchess County, New York.

Reasons Supporting This Determination:

1. The Action would not create a substantial adverse change in existing air quality or ground or surface water quality or quantity.
2. The Action would not create a substantial adverse change in existing traffic levels. Although there would be some additional traffic to the property due to the drop off and pick up of dogs by potential customers, the ZBA finds that the impacts resulting from the proposed Action do not rise to the level of a significant adverse environmental impact requiring further review in an environmental impact statement.
3. The Action would not create a substantial adverse change in existing noise levels. Residents of the neighborhood surrounding the subject property raised issues regarding noise made by the dogs. The ZBA finds that while the addition of dogs that are being cared for at the proposed kennel may result in noise impacts, such impacts do not rise to the level of a significant adverse environmental impact requiring further review in an environmental impact statement.
4. The Action would not create a substantial adverse change in in solid waste production. The action is not expected to result in a substantial adverse environmental impact in solid waste production in the nature of municipal solid waste. However, some residents of the neighborhood raised issues regarding the storage and management of dog feces. The ZBA finds that while the addition of additional dogs to the area may result in waste production impacts, such impacts do not rise to the level of a significant adverse impact requiring further environmental review in an environmental impact statement.
5. The Action would not create a substantial increase in potential for erosion, flooding, leaching or drainage problems.

6. The Action would not involve the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources.
7. The Action would not cause the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 6 NYCRR 617.14(g).
8. The Action would not cause the creation of a material conflict with the Town of Pleasant Valley's current plans or goals as officially approved or adopted. The size of the variances necessary to allow for the proposed Action, both individually and when taken together, are large. The ZBA finds that while the proposed Action is not in keeping with the minimum standards set in the current zoning or plan for the residential area, it does not rise to the level of creating a material conflict with the community's current plans or goals such that an environmental impact statement would be required.
9. The Action would not cause the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character. The ZBA finds that while the addition of the dogs boarded at the kennel into the area may result in impacts to the existing community or neighborhood character due to increased barking, such impacts do not rise to the level of a significant adverse impact requiring further review in an environmental impact statement.
10. The Action would not create a major change in the use of either the quantity or type of energy.
11. The Action would not create a hazard to human health.
12. The Action would not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.
13. The Action would not encourage or attract of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.
14. The Action would not create a material demand for other actions that would result in one of the above consequences.
15. The Action would not create changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together would result in a substantial adverse impact on the environment.

For Further Information:

Ed Feldweg, Acting Chairman
Town of Pleasant Valley Zoning Board of Appeals
1554 Main Street
Pleasant Valley, NY 12569
Phone: 845-635-3274

THIS NEGATIVE DECLARATION WAS AUTHORIZED AT A MEETING OF THE LEAD AGENCY HELD ON AUGUST 29, 2013.

The above resolution was duly adopted by the vote of a majority of the members of the Town of Pleasant Valley Zoning Board of Appeals at a regular meeting held on August 29, 2013.

By: Maura Kennedy
Maura Kennedy, Clerk
Town of Pleasant Valley Zoning Board of Appeals

Boardmember Timothy Gerstner made a motion to approve the Negative Declaration, seconded by Michael Schroeder.

Acting Chairman Edward Feldweg asked Boardmember Sharon Wilhelm to speak about the recodification plan for the Town of Pleasant Valley. Board member Sharon Wilhelm talked about the Pleasant Valley Recodification plan that was implemented in December of 2009.

Attorney Janis Gomez noted that there are four (4) resolutions that the Zoning Board will vote on.

Attorney Janis Gomez read the following resolutions:

**PLEASANT VALLEY ZONING BOARD OF APPEALS
RESOLUTION WITH RECORD OF FINDINGS**

FREEDOM REINS FARM, GRID NO. 6365-04-662125

Area Variances– Setback from Side Lot Lines

WHEREAS, Annette Castellani has applied for area variances for relief from Section 98-35(C) of the Code of the Town of Pleasant Valley to allow a kennel to be located 0 feet from both side property lines, where 100 feet is required (a variance of 100

feet or 100%) on property located at 383 Smith Road in the Town of Pleasant Valley, which is located within the Rural Residential (RR) Zoning District;

WHEREAS, a public hearing on the area variance was held on May 23, 2013; and

WHEREAS, after an uncoordinated review, the Zoning Board of Appeals acting as Lead Agency issued a negative declaration under the State Environmental Quality Review Act on August 29, 2013; and

WHEREAS, after due deliberation, including careful consideration of the standard of review for an area variance, namely “the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant”, the ZBA has determined that the criteria for issuance of an area variance (**have** / **have not**) been met.; and

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Pleasant Valley hereby finds that

1. If granted, the area variance (**would** / **would not**) create an undesirable change in the character of the neighborhood or a detriment to nearby properties for the following reasons: financially detrimental to value of properties on either side, moves kennel operation to neighbor’s property lines
2. The benefit to the applicant (**can** / **cannot**) be achieved by some method, feasible for the applicant to pursue, other than an area variance for the following reasons: Applicant can relocate business to a more appropriate piece of property where set backs can be reasonably met.
3. The requested area variance (**is** / **is not**) substantial for following reasons:

This is a 100% variance. This sets a precedent if adopted, 100% is completely unreasonable.

4. If granted, the area variance (will / will not) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:

Yes, noise from the dogs, smell of the dogs and by products of the dogs. The additional traffic to be considered in the neighborhood, car doors opening & closing at an early hour. The most significant impact is the dog barking.

5. The alleged difficulty (was / was not) self-created for the following reasons:
The kennel operation resides in the applicant's house and on designated lands, rather than a different location on her property, or on a different property all together. Additionally, the applicant's operation was started without the required approvals or special use permit.

BE IT FURTHER RESOLVED, that, for the foregoing reasons, the application for the area variance described above is hereby

GRANTED as the variance requested is the minimum necessary, will preserve and protect the character of the neighborhood, and because the benefit to the applicant(s), if the area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community

DENIED as the benefit to the applicant(s), if the area variance is granted, is outweighed by the detriment to the health, safety and welfare of the neighborhood or community.

Motioned By: Board Member Timothy Gerstner

Seconded By: Board Member Steven Kish

The foregoing resolution was voted upon with all Board members voting as follows:

In favor of denial:

	AYE	NAY	ABSTAIN	ABSENT
ED FELDWEG	X	_____	_____	_____
TIMOTHY GERSTNER	X	_____	_____	_____
STEPHEN KISH	X	_____	_____	_____
ROBERT MAUCHER	X	_____	_____	_____
KATHLEEN MYERS – Alt 1	X	_____	_____	_____
MICHAEL SCHROEDER – Alt 2	X	_____	_____	_____
RONALD VOGT	_____	_____	_____	X
SHARON WILHELM	X	_____	_____	_____

CARRIED.

Dated: 9-5-13

Ed Feldweg
ED FELDWEG
Acting Chairman

**PLEASANT VALLEY ZONING BOARD OF APPEALS
RESOLUTION WITH RECORD OF FINDINGS**

FREEDOM REINS FARM, GRID NO. 6365-04-662125

Area Variance– Setback from Front Lot Line

WHEREAS, Annette Castellani has applied for an area variance for relief from Section 98-35(C) of the Code of the Town of Pleasant Valley to allow a kennel to be

located 60 feet from the front property line, where 100 feet is required (a variance of 40 feet or 40%) on property located at 383 Smith Road in the Town of Pleasant Valley, which is located within the Rural Residential (RR) Zoning District;

WHEREAS, a public hearing on the area variance was held on May 23, 2013; and

WHEREAS, after an uncoordinated review, the Zoning Board of Appeals acting as Lead Agency issued a negative declaration under the State Environmental Quality Review Act on August 29, 2013; and

WHEREAS, after due deliberation, including careful consideration of the standard of review for an area variance, namely “the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant”, the ZBA has determined that the criteria for issuance of an area variance (**have** / **have not**) been met.; and

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Pleasant Valley hereby finds that

1. If granted, the area variance (**would** / **would not**) create an undesirable change in the character of the neighborhood or a detriment to nearby properties for the following reasons:

financially detrimental to value of properties on either side

2. The benefit to the applicant (**can** / **cannot**) be achieved by some method, feasible for the applicant to pursue, other than an area variance for the following reasons:

Applicant can relocate business to a more appropriate piece of property where set backs can be reasonably met.

3. The requested area variance (**X is** / **is not**) substantial for following reasons:

The 40 % variance if it had been requested alone may not be substantial.

When taken with the other requested variances it now becomes substantial.

4. If granted, the area variance (**X will** / **will not**) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:

Yes, noise from the dogs, smell of the dogs and by products of the dogs. The additional traffic to be considered in the neighborhood, car doors opening & closing at an early hour. The most significant impact is the dog barking.

5. The alleged difficulty (**X was** / **was not**) self-created for the following reasons:

The kennel operation resides in the applicant's house and on designated lands, rather than a different location on her property, or on a different property all together.

BE IT FURTHER RESOLVED, that, for the foregoing reasons, the application for the area variance described above is hereby

GRANTED as the variance requested is the minimum necessary, will preserve and protect the character of the neighborhood, and because the benefit to the applicant(s), if the area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community

X DENIED as the benefit to the applicant(s), if the area variance is granted, is outweighed by the detriment to the health, safety and welfare of the neighborhood or community.

Motioned By: Board Member Robert Maucher

Seconded By: Board Member Steven Kish

The foregoing resolution was voted upon with all Board members voting as follows:

In favor of denial:

	AYE	NAY	ABSTAIN	ABSENT
ED FELDWEG	<u> X </u>	_____	_____	_____
TIMOTHY GERSTNER	<u> X </u>	_____	_____	_____
STEPHEN KISH	<u> X </u>	_____	_____	_____
ROBERT MAUCHER	<u> X </u>	_____	_____	_____
KATHLEEN MYERS – Alt 1	<u> X </u>	_____	_____	_____
MICHAEL SCHROEDER – Alt 2	<u> X </u>	_____	_____	_____
RONALD VOGT	_____	_____	_____	<u> X </u>
SHARON WILHELM	<u> X </u>	_____	_____	_____

CARRIED.

Dated: 9/5/13

Ed Feldweg
ED FELDWEG
Acting Chairman

**PLEASANT VALLEY ZONING BOARD OF APPEALS
RESOLUTION WITH RECORD OF FINDINGS**

FREEDOM REINS FARM, GRID NO. 6365-04-662125

Area Variance – Lot Size

WHEREAS, Annette Castellani has applied for an area variance for relief from Section 98-35 (A) of the Code of the Town of Pleasant Valley to allow a kennel on 2.39 acres of property where 5 acres is required (a variance of 2.61 acres or 52.2%) on property located at 383 Smith Road in the Town of Pleasant Valley, which is located within the Rural Residential (RR) Zoning District;

WHEREAS, a public hearing on the area variance was held on May 23, 2013; and

WHEREAS, after an uncoordinated review, the Zoning Board of Appeals acting as Lead Agency issued a negative declaration under the State Environmental Quality Review Act on August 29, 2013; and

WHEREAS, after due deliberation, including careful consideration of the standard of review for an area variance, namely “the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant”, the ZBA has determined that the criteria for issuance of an area variance (have / have not) been met.; and

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Pleasant Valley hereby finds that

1. If granted, the area variance (would / would not) create an undesirable change in the character of the neighborhood or a detriment to nearby properties for the following reasons:

Financially detrimental to value of properties on either side, too much proximity to the next door neighbors. The Zoning Code has set minimum standards for the operation of kennels and size of property, this property is not even close. Under the previous code 3

acres were required, now the new code requires 5 acres. While it may be reasonable under the 3 acre standard, a variance under the 3 acre standard from 2.61 acres to 3 acres may have been reasonable, a variance of 52.2 % to 5 acres is not reasonable.

2. The benefit to the applicant (can / cannot) be achieved by some method, feasible for the applicant to pursue, other than an area variance for the following reasons:
Relocate to more appropriate property where setbacks can be reasonably met.
Historically, variances of this magnitude have not been granted and could be considered a re-writing of the code.

3. The requested area variance (is / is not) substantial for following reasons:
It is a 52.2% variance, yes it is substantial.

4. If granted, the area variance (will / will not) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:
10-15 dogs are very noisy and crowded, these conditions have been testified to; noise, odors, and by-products of the dogs. Additional traffic with car doors opening and closing at an early hour. Most significant impact is from the barking of the dogs.

5. The alleged difficulty (was / was not) self-created for the following reasons:
The applicant has chosen to have the kennel operation located in her house and not on another property all together.

BE IT FURTHER RESOLVED, that, for the foregoing reasons, the application for the area variance described above is hereby

GRANTED as the variance requested is the minimum necessary, will preserve and protect the character of the neighborhood, and because the benefit to the applicant(s), if the area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community

DENIED as the benefit to the applicant(s), if the area variance is granted, is outweighed by the detriment to the health, safety and welfare of the neighborhood or community.

Motioned By: Board Member Robert Maucher

Seconded By: Board Member Steven Kish

The foregoing resolution was voted upon with all Board members voting as follows:

In favor of denial:

	AYE	NAY	ABSTAIN	ABSENT
ED FELDWEG	<u> X </u>	_____	_____	_____
TIMOTHY GERSTNER	<u> X </u>	_____	_____	_____
STEPHEN KISH	<u> X </u>	_____	_____	_____
ROBERT MAUCHER	<u> X </u>	_____	_____	_____
KATHLEEN MYERS – Alt 1	<u> X </u>	_____	_____	_____
MICHAEL SCHROEDER – Alt 2	<u> X </u>	_____	_____	_____
RONALD VOGT	_____	_____	_____	<u> X </u>
SHARON WILHELM	<u> X </u>	_____	_____	_____

CARRIED.

Dated: 9-5-13

ED FELDWEG
ED FELDWEG
Acting Chairman

**PLEASANT VALLEY ZONING BOARD OF APPEALS
RESOLUTION WITH RECORD OF FINDINGS**

FREEDOM REINS FARM, GRID NO. 6365-04-662125

Special Use Permit – Variances Not Granted

WHEREAS, Annette Castellani has applied for a special use permit, pursuant to Town Code of the Town of Pleasant Valley Sections 98-35 and 98-67 through 98-70 to operate a kennel on property located at 383 Smith Road in the Town of Pleasant Valley, which is located within the Rural Residential (RR) Zoning District;

WHEREAS, a public hearing on the special use permit was held on August 29, 2013; and

WHEREAS, after an uncoordinated review, the Zoning Board of Appeals acting as Lead Agency issued a negative declaration under the State Environmental Quality Review Act on August 29, 2013; and

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Pleasant Valley hereby finds that the criteria set forth in Section 98-70(A) and (B) of the Town Code have not been met as the applicant cannot meet the conditions specified in Section 98-35 A and C as subsection A requires a minimum of five acres for lot size and applicant's lot is only 2.39 acres; and subsection C requires that no kennel shall be constructed within 100 feet of any public road or property line, and the proposed

kennel is set back 0 feet from the side lots lines and 40 feet from the front lot line. The applicant applied for variances from these requirements, and the variances were denied.

BE IT FURTHER RESOLVED, that, for the foregoing reasons, the applicant is hereby **DENIED** a special use permit, in accordance with Sections 98-35 and 98-70 of the Town Code of the Town of Pleasant Valley, to operate a kennel on the property located at 383 Smith Road.

Motioned By: Board Member Robert Maucher

Seconded By: Board Member Timothy Gerstner

The foregoing resolution was voted upon with all Board members voting as follows:

In favor of denial:

	AYE	NAY	ABSTAIN	ABSENT
ED FELDWEG	<u> X </u>	_____	_____	_____
TIMOTHY GERSTNER	<u> X </u>	_____	_____	_____
STEPHEN KISH	<u> X </u>	_____	_____	_____
ROBERT MAUCHER	<u> X </u>	_____	_____	_____
KATHLEEN MYERS – Alt 1	<u> X </u>	_____	_____	_____
MICHAEL SCHROEDER – Alt 2	<u> X </u>	_____	_____	_____
RONALD VOGT	_____	_____	_____	<u> X </u>
SHARON WILHELM	<u> X </u>	_____	_____	_____

Carried.

Dated: 9-5-13

Ed Feldweg
ED FELDWEG
Acting Chairman

Chairman Dunn returned from recusal to preside over the remaining appeals.

The second and third agenda item for this meeting was Appeal #986 & #987 for Wood Crest Pines.

NEW BUSINESS:

Wood Crest Pines (Appeal #986)

Grid # 6464-01-429648

Location: 1383 Rte. 44 – 38 Shag Bark Rd.

Area Variance Referral for ZBA on Set Backs

Pursuant to the Code of the Town of Pleasant Valley, Chapter 98, Article IV, § 98-36 B(3)(a).

The Chairman noted that he was in receipt of the Affidavit of Publication from the Poughkeepsie Journal dated August 23, 2013 and the Notification to Landowners dated August 14, 2013.

Chairman John Dunn read the following resolution:



**Town of Pleasant Valley
Dutchess County, New York**

Decision and Notice of Action of the Zoning Board of Appeals

Area Variance

Applicant Wood Crest Pines Appeal # 986 Dated 8/29/13

Property Location 38 Shag Bark Road, Pleasant Valley Zoning District MHP

Description of Variance Requested: Mobile Home Replacement

Code Section appealed 98-36 B(3)(a)

At a meeting on 8/29/13 the Zoning Board of Appeals took into consideration the benefit to the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. By resolution of the Board it was determined that:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the area variance: Yes _____ No X Reasons: Replacement of trailer will be on the same site and only extend 2' in excess.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes _____ No X Reasons: New home would be much more attractive and safer.

3. Whether the requested area variance is substantial: Yes _____ No X Variances: Front 5', Front 13'8", Right 6", Left 0, Rear 2"

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

YES _____ NO X Reasons: Removal of foliage would provide a safer view of the corner.

5. Whether the alleged difficulty was self-created: YES _____ NO X Reasons: Updated home

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Determination of the Zoning Board of Appeals based on the above five factors:

 The benefit to the applicant **DOES NOT** outweigh the detriment to the neighborhood or community, and therefore the variance request is **DENIED**.

 X The benefit to the applicant **DOES** outweigh the detriment to the neighborhood or community, and therefore the variance request is **GRANTED**.

Reasons: New home would be more attractive and safer

The Zoning Board of Appeals further finds that the variance, as granted, is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because: New home would be more attractive and safer

Conditions

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

Condition No. 1 _____



**Town of Pleasant Valley
Dutchess County, New York**

Decision and Notice of Action of the Zoning Board of Appeals

Area Variance

Applicant Wood Crest Pines **Appeal #** 987 **Dated** 8/29/13

Property Location 28 Juniper Ave, Pleasant Valley **Zoning District** MHP

Description of Variance Requested: Porch Construction

Code Section appealed 98-36

At a meeting on 8/29/13 the Zoning Board of Appeals took into consideration the benefit to the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. By resolution of the Board it was determined that:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the area variance: Yes _____ No X Reasons: Permit already mistakenly issued and porch already built.**

- 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes _____ No X Reasons: porch already constructed.**

- 3. Whether the requested area variance is substantial: Yes _____ No X Variance: Front Setback – 20’3”**

- 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: YES _____ NO X Reasons: Porch is newly constructed and safer**

- 5. Whether the alleged difficulty was self-created: YES _____ X _____ NO _____ Reasons: newer, safer construction**

Determination of the Zoning Board of Appeals based on the above five factors:

 The benefit to the applicant **DOES NOT** outweigh the detriment to the neighborhood or community, and therefore the variance request is **DENIED**.

 X The benefit to the applicant **DOES** outweigh the detriment to the neighborhood or community, and therefore the variance request is **GRANTED**.

Reasons: Permit already mistakenly issued and porch already built

The Zoning Board of Appeals further finds that the variance, as granted, is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because: New home would be more attractive and safer

Conditions

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

Condition No.1 Removal of foliage by corner of mobile home to increase visibility at corner.

Adverse impact to be minimized _____

Condition No. 2 _____

Adverse impact to be minimized _____

Condition No. 3 _____

Adverse impact to be minimized _____

Motioned By: Chairman John Dunn

Seconded By: Board Member Sharon Wilhelm

VOTE TAKEN AND APPROVED

- J. Dunn: In Favor**
- T. Gerstner: In Favor**
- S. Kish: In favor**
- K. Meyers: In favor**
- M. Schroeder: In favor**
- R. Vogt: Absent**
- S. Wilhelm: In favor**
- E. Feldweg: In favor**

John Dunn

Signature

Chair, Pleasant Valley Zoning Board of Appeals

8/29/13

Date

The foregoing represents official minutes of the August 29, 2013 Pleasant Valley Zoning Board of Appeals Meeting.

____ Approved as read X Approved as corrected with deletions/additions

PLEASANT VALLEY ZONING BOARD OF APPEALS

December 19, 2013

The regularly scheduled meeting of the Pleasant Valley Zoning Board of Appeals was held on December 19, 2013 at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:29 pm.

Present: Chairman John Dunn; Board Members: Edward Feldweg, Kathleen Myers, Stephen Kish, Robert Maucher, Timothy Gerstner; Secretary: Maura Kennedy; Zoning Administrator: Michael White

The minutes of the August 29, 2013 ZBA meeting regarding all items except Appeal #985 was approved on motion by Board member Ed Feldweg, seconded by Board member Robert Maucher, carried. The minutes of the August 29, 2013 regarding Appeal #985 was approved on motion by Boardmember Michael Schroeder, seconded by Board member Kathleen Myers.

REFERRAL TO ZBA

Chestnut Mart of Pleasant Valley, Inc.

Grid # 6363-04-555243

Location: 1413 Route 44

Area Variance Request for modification of an existing gas station canopy and installation of a new free standing price sign.

Chairman John Dunn opened the meeting by reviewing the agenda. The first item on the agenda was Appeal #985, Chestnut Mart.

The Chairman read into record the list of supporting documentation for the appeal:

LIST OF DOCUMENTATION

- 1) *Affidavit of Publication from the Poughkeepsie Journal dated 12/13/13*
- 2) *Notification to adjacent land owners dated 12/9/13*
- 3) *Dutchess County Planning Referral dated 10/07/13*
- 4) *Zoning Administrator letter dated 10/17/2013*
- 5) *Sign Proposal & Rendering*
- 6) *Sign Application*
- 7) *PB Referral to ZBA*

OPEN THE PUBLIC HEARING TO THE PUBLIC:

Chairman John Dunn asked if there were any comments from the general public.

No comments heard.

CLOSE THE MEETING TO THE PUBLIC:

Motion by Chairman John Dunn to close public portion of the meeting, seconded by Board Member Ed Feldweg, carried.

Scott Parker – 536 Main St., New Paltz, New York – was sworn in by Chairman Dunn. Mr. Parker representing the applicant reviewed the application with the board.

The Zoning Board of Appeals had discussion regarding Appeal #985 and the area variance requests by Chestnut Mart.

The following resolution was introduced:

Decision and Notice of Action of the Zoning Board of Appeals

Area Variance

Applicant: Chestnut Mart

Appeal #: 985

Property Location: 6363-04-555243

Zoning District: HDR

Description of Variance Requested:

1. A variance or interpretation to consider the proposed canopy signs to function as a wall sign, as canopy signs are not listed as permissible signs in the town code, Chapter 98, Article IV, § 98-46 B and § 98-46 I (1) (a).
2. A variance to allow for two of such signs, as one sign is permitted pursuant to the town code, Chapter 98, Article IV, § 98-46 I (1) (a). The applicant is proposing the use of two, side-mounted canopy signs for adequate viewing and display purposes.
3. A variance to allow for the aggregate area of the two signs to exceed 24 sf pursuant to the town code, Chapter 98, Article IV, § 98-46 I (a) [5]. The two signs equal 26.93 sf in total; the code limits the maximum size to 24 sf.

4. A variance to allow for internal illumination which is prohibited pursuant to the town code, Chapter 98, Article IV, § 98-46 F (7). The Mobile Image 2000 renderings propose internally illuminated signs.
5. A variance to allow for a monument sign in addition to the one primary sign permitted by the town code, Chapter 98, Article IV, § 98-46 H (3) and I (a) [5].
6. A variance to allow for a total sign area of 37.1 sf, as the town code, Chapter 98, Article IV, § 98-46 H (3) and I (1) (a) [6] limit the maximum size to 16 sf.
Note: the sign is essentially in three sections, and the boards should decide if the three sections are to be considered merged to function as one sign.
7. A variance to allow for the height of the proposed monument sign to span 13.59 ft. The town code, Chapter 98, Article IV, § 98-46 I (1) (a) [6] limits the height to a maximum of 6 ft, including all components of the sign.
8. A variance to allow for 11 words plus the gasoline prices. The town code, Chapter 98, Article IV, § 98-46 J (2) (c) establishes a maximum of 7 words on a sign. Such wording would include words, telephone numbers, logos, etc.
Note: as stated in paragraph 6 above, the monument sign is essentially in three sections. Each section, considered separately, would be code-compliant with respect to the number of words, at (from top to bottom) 3, 6 and 6 words respectively.

At a meeting on 12/19/13 the Zoning Board of Appeals took into consideration the benefit to the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. By resolution of the Board it was determined that:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the area variance: Yes _____ No X
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes X
No _____
3. Whether the requested area variance is substantial: Yes X No _____
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:
YES _____ NO X
5. Whether the alleged difficulty was self-created: YES X NO _____

Determination of the Zoning Board of Appeals based on the above five factors:

_____ The benefit to the applicant DOES NOT outweigh the detriment to the neighborhood or community, and therefore the variance request is DENIED.

X **The benefit to the applicant DOES outweigh the detriment to the neighborhood or community, and therefore the variance request is GRANTED.**

Decision Comments:

The Chairman noted that the applicant must stay strictly within the limits authorized for the size of the sign and all components. As agreed upon between the boards and the applicant, the cornice section of sign must be removed per this ZBA Resolution.

VOTE TAKEN AND APPROVED 6-1-0

J. Dunn	In favor
T. Gerstner	In favor
S. Kish	In favor
R. Maucher	Opposed
R. Vogt	Absent
M. Schroeder	In favor
E. Feldweg	In favor
K. Myers	In favor
S. Wilhelm	Absent

John Dunn

12/19/13

Signature

Date

Chair, Pleasant Valley Zoning Board of Appeals

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Chairman John Dunn made a motion to adjourn, second by Robert Maucher, all in favor.

The foregoing represents unofficial minutes of the December 19, 2013 Pleasant Valley Zoning Board of Appeals Meeting.

 Approved as read X Approved as corrected with deletions/additions

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