

Approved

ZONING BOARD OF APPEALS

May 7, 2013

Present: Michael Dudick, Chairman, Michael Bloss, Randy Gifford, Chris Lemire
Amy Standaert, Doug Strother

Also Present: Joel Peller, Esq., ZBA Counsel
Steve Myers, Director, Building & Zoning

Absent: Mario Fantini, Jennifer Vucetic

Mr. Dudick called the meeting at 7:10 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicants this is a seven member board with one alternate. To receive approval, an application must receive 4 yeas regardless of the number of members present. There are six members present tonight, one member and the alternate are absent. He told the applicants they must receive 4 of the six votes for approval however, they may defer the application to a later meeting if they believe there might be more members present. He explained that there is no promise that any meeting will have all members present.

OLD BUSINESS:

**An application from Massaroni Enterprises Trust for two variances 1) Section 208-46D, rear yard setback required =30', requested=11', variance required = 19'; 2) Section 208-46F green space req = 35%, has 23.6% from prior approval, requested=21.3%, variance required=13.7%
Property is located at 629 Plank Road, Clifton Park, NY 12065 (Permit #80904)**

Mr. Paul Massaroni, Trustee of Massaroni Enterprises Trust, continued his presentation. He reminded that he had originally requested two variances. He explained that last night, at the Town Board meeting, he acquired an additional piece of property which makes the green space no longer an issue. He stated he currently has an approved variance for green space of 23 1/2% and the addition of the property brings the green space to 28.6% so the variance is no longer needed. He said the reason he is here tonight is to get the setback variance to put up his shed.

Mr. Dudick asked if the green space now is not an issue. Mr. Massaroni answered that is his understanding. Mr. Dudick asked Mr. Myers if there are any further issues with regard to the green space.

Mr. Myers responded he had spoken with Town Attorney, Tom McCarthy, to confirm that Mr. Massaroni had received a resolution to acquire the property, the Town maintaining a 60 foot right of way and the rest going to Mr. Massaroni. He explained Mr. Massaroni's current green space is 23.6 for which he already had a variance and now the green space is almost up to 29%. Being that his green space is now greater, he will not need a variance.

Mr. Dudick summarized they are now there just to discuss the setback for the shed. Mr. Peller asked Mr. Massaroni what his relationship is to the Trust, and if he has the authority to act on its behalf.

Mr. Massaroni answered he is a Trustee and has the authority to act on its behalf.

Mr. Dudick asked who are the neighbors of the property behind the shed. Mr. Massaroni answered they are the Northway I87 behind it and the Clifton Country Car Wash, of which he is the owner. He stated there is a ten to twelve foot retaining wall there and 150 feet above the retaining wall.

Mr. Dudick asked if the shed would be visible from the Northway. Mr. Massaroni responded it will not be as the shed is going to be 9 ½ feet at the peak. He added the size of the shed changed, originally it was going to be 14' x 36' and now it will be 12' x 30'.

Mr. Dudick asked Mr. Myers if there was an issue on the change of the size of the shed, and Mr. Myers answered there was not.

Mr. Strother asked if the green space is now 29% and the variance is 23.6%, would that allow him to build on the difference (approx 6%).

Mr. Dudick responded the Zoning Board does not usually take away variances.

Mr. Massaroni answered that most of that area is green space and even after the shed is built, there would still be 29% green space. He explained the parking lot is located in another area.

Mr. Strother again asked if he could build on the other 6%. He asked if he is incorrect that they would still have the 23.6% variance.

Mr. Myers said that is correct and if he he wanted to take the green space down to 23.6%, he could do it.

Mr. Dudick added that Planning would still have to approve the site plan. He said he does not see a problem with the application and by acquisition of the wedge of property he solved the green space issue.

Mr. Massaroni explained the land was originally owned by the state and then it was turned over to the town. Mr. Dudick informed that 25 years ago, the green space requirement was 30%. He said he does not see an issue with the shed placement which will not create a problem of view from the Northway.

Mr. Dudick announced the public hearing and asked for comments. There were no comments. He then made the motion to close the public hearing. The motion was seconded by Mr. Gifford. All approved. Public hearing closed.

Mr. Lemire made the motion to approve the amended application (green space aspect removed). Mr. Bloss seconded the motion.

Ayes: Bloss, Gifford, Dudick, Standaert, Strother, Lemire Noes: none

Amended application approved for 19 foot rear setback variance.

NEW BUSINESS:

The secretary read the legal notice as it appeared in the Daily Gazette on May 2, 2013.

1) An application from Sign Studio, Inc (Ron Levesque) for a variance from Chapter 171, Chart 1: 15; setback required from front property line for freestanding sign. Setback requested = 0', Variance required = 15' Property is located at 282 Ushers Road, Clifton Park, NY 12065 (Permit #80911)

The application was presented by Ron Levesque, from Sign Studio, representing the Wells Fargo Advisors for the sign variance.

Mr. Levesque said they are looking for a zero foot setback from the 15 foot setback requirement for a 24' square freestanding sign. He stated the reason it came about is because there is a 15' New York State DOT right of way, which pushes the property line back an additional 15' and if they place the sign 15' from that, it would be in the parking lot. He added if they do it this way there is ample room between the sign and the parking lot and room for future landscaping. He cited a past decision when the Board granted a variance for a similar situation for Christ Community Reformed Church.

Mr. Peller asked Mr. Myers if the Board had granted 0' setback for the church.

Mr. Myers answered he believed that is correct because of the 15' Department of Transportation right of way. Mr. Levesque offered a copy if they wished to take a look at it.

Mr. Lemire asked if Wells Fargo is the tenant. Mr. Levesque answered Wells Fargo is the tenant and Adirondack Property is the owner, one and the same.

Mr. Strother stated that with the 15' setback, he didn't know where else he would put the sign.

Mr. Levesque answered they have looked at the traffic triangle for cars coming in and out of the establishment and pushed the sign back to the middle so the cars won't be blocked by it. He said they will also put the address on the sign as well.

Mr. Lemire asked the location of the parking lot in relation to the sign. Mr. Levesque answered the parking lot will be 8' back from the edge of the sign.

Mr. Lemire asked what is on the west side.

Mr. Levesque answered it is all lawn and there is a downgrade and there used to be a drive there, but it is now blocked off. Mr. Myers showed Mr. Lemire a map of the property.

Mr. Levesque stated that if they put the sign there because of the terrain, it would be hard to see. He added that a car coming from I 87 would have to be right on top of it before it was seen.

Mr. Lemire asked the allowed height of the sign and Mr. Myers answered it can be up to 18 feet.

Mr. Levesque responded he thinks a monument sign would look much better than a pole sign. Mr. Dudick agreed and mentioned that if you drive by it, the grade drops down.

Mr. Lemire asked about the post rail fence along that line and the sign for the insurance agency. Mr. Myers said it is on the end of the building but he hasn't seen a sign on the fence. Mr. Lemire said it is there. Mr. Strother said he thinks that the monument sign would look nicer.

Mr. Levesque informed it is a log cabin and they are trying to blend with the aesthetics of the log cabin. He said putting a metal pole sign would not look good.

Mr. Lemire asked why not put it in the grassy area. Mr. Levesque answered it would not be visible coming from the Northway.

Mr. Myers said he talked to several people who have tried to occupy the building, and the DOT sometimes grants a variance to put a sign in their right of way, but in this case, it didn't work out, although it was discussed. He said they have never allowed it here,

which would have been a better option and thinks there was previously approval for a sign in that area, but more right of way was taken by the DOT.

Mr. Lemire asked what is the right of way.

Mr. Myers explained it is the property the DOT owns, and in this case, it widens out right in front of this business for future expansion of the road going to the exit.

Mr. Lemire asked if the edge of the property is not synonymous with the edge of the road. Mr. Myers answered "it is not".

Mr. Myers showed Mr. Lemire a map and explained where the sign will go, which is about 15-20 feet from the DOT line.

Mr. Strother asked how the DOT feels about a 0' setback on a road like that.

Mr. Levesque responded they are putting the footing in about 3 feet away from the line so they can move it if they have to. He said they are taking into consideration that the DOT could come in and take down the sign if they needed the property.

Mr. Myers said it is the only logical place to put it. He referred to Mr. Lemire's suggestion where to put it, but it wasn't the location given to him but he would be OK with that as well, adding "as long as they get the visibility they are looking for".

Mr. Dudick announced the public hearing and asked for comments. There were none. He made the motion to close the public hearing. Mr. Gifford seconded the motion. All approved. Public hearing closed.

Mr. Strother made the motion to approve the application as submitted. Mr. Gifford seconded the motion.

Ayes: Bloss, Gifford, Dudick, Standaert, Strother, Lemire Noes: none

Application approved as submitted for 0' front setback for freestanding sign.

The secretary read the legal notice as it appeared in the Daily Gazette on May 2, 2013.

2) An application from Masullo Brothers Builders for a variance from Section 208-86, keyhole lots, which requires 50' setback from all property lines for main building.

Setback requested = 30'; variance required = 20'.

Property is located at 51 Tipperary Way, Clifton Park, NY 12065 (Permit #80912)

The application was presented by Mr. Steve Masullo, owner of Masullo Brothers Builders. He stated he is seeking a variance for a front setback for a single family home at 51 Tipperary Way, a keyhole lot in the Fairway Woods subdivision in phase IV. He explained Tipperary Way is a public street and the keyhole lot has a common driveway

which is privately owned and will support two residential lots. The first one, lot 51, will have a setback from the front side of the driveway and the second lot, 49, will have it from the back part of the driveway. He said they are asking for less of a setback for the front one which will align the house with the next house to be built. Lot 49 will be 10 feet closer to the driveway than lot 51 even with the 20 foot variance. He informed the lot is very shallow and its back yard is a golf course. The closest point point to any public road is about 300 feet. To the right will be another residential lot, which he also owns and next to it other lots he owns.

Mr. Peller asked Mr. Masullo if he has a contract to build and if it is contingent on getting the variance. Mr. Masullo answered there is a contract contingent on the variance. He explained the buyer wants to put a pool in the back yard. He said the home will be a ranch so there will not be too much room in the back and the lot has a 12' slope to the right. He added that they are retaining trees between the lots. He explained the map to Mr. Lemire who asked about the boundary from the house to the private drive, and told him it is not a main road.

Mr. Myers said he has no problem with what they are proposing, explaining that it depends on the homeowner what they want to do with the lot. He informed they are retaining trees between the two lots.

Mr. Dudick announced the public hearing and asked for comments. There were none. Mr. Dudick made the motion to close the public hearing. The motion was seconded by Mr. Lemire. All approved. Public hearing closed.

Mr. Dudick said he has no great issue with the application and doesn't see a problem because of the uniqueness of the keyhole lot.

Mr. Gifford made the motion to approve the application as submitted. Mr. Bloss seconded the motion.

Ayes: Lemire, Strother, Standaert, Dudick, Gifford, Bloss Noes: none

Application approved for a 20' setback variance.

The secretary read the legal notice as it appeared in the Daily Gazette on May 2, 2013.

3) An application from Hanley Sign Co for a variance from Chapter 171 of town code, sign law, Chart I. Maximum allowed wall sign = 32 sf. Requested = 38 sf, variance required = 6 sf.

Property is located at 54 Crossing Blvd, Clifton Park, NY 12065 (Permit #80913)

The application was presented by Michael Clement, from Hanley Sign Co., representing Southwest Sign Co. Mr. Dudick inquired as to whether Mr. Clement had authorization to represent Southwest Sign. Mr. Clement responded that he does and it was submitted with the application.

Mr. Clement said they propose a 38 square foot sign and are allowed 32 and are asking for another 6 feet. He asserted the letters are similar to what is in the plaza, some larger, some smaller.

Mr. Dudick repeated this is a six foot variance and said it does not strike him as overreaching at all.

Mr. Lemire asked about the square footage numbers (50.5 sq ft) on Mr. Clement's paperwork, which he pointed out is different than the 32 sq ft.

Mr. Clement answered that the calculations were incorrect as the ordinance was misinterpreted by Southwest Sign. He explained they originally measured 2 foot by 25 ft 2 7/8" and in reality it is 2 foot by 7 3/4 and the showroom is 16" by 16' 11" and those numbers were corrected by the building department.

Mr. Lemire asked if the spaces between that didn't count. Mr. Clement said it did not, just measuring the letters.

Mr. Myers responded to the question, saying he changed the size as they originally ran the two foot letters along the whole sign and he changed the size and cut it down in the way he normally does it.

Mr. Dudick said he reduced the amount of the variance, and Mr. Myers said "correct".

Mr. Dudick stated this falls into the character of the plaza. Mr. Myers added they regulate everything on the plaza itself, for example Cracker Barrel, Hess but the other side of it is in Halfmoon. Mr. Dudick asked if the wine and liquor store which has a very large sign is in Halfmoon and Mr. Myers said it is.

Mr. Dudick announced the public hearing and asked for comments. There were none. He made the motion to close the public hearing. Mr. Gifford seconded the motion. All approved. Public hearing closed.

Mrs. Standaert made the motion to approve the application as submitted. Mr. Strother seconded the motion.

Ayes: Lemire, Strother, Standaert, Dudick, Gifford, Bloss Noes: none

Application approved as submitted for a 6 square foot sign variance.

The secretary read the legal notice as it appeared in the Daily Gazette on May 2, 2013.

4) An application from Prestige Motor Car Corp. for use variance from 208-69.2 to expand existing building in an LI-2 zone into adjacent LC zone, LC zone in this area requires 100 feet buffer from Dwaas Kill per 208-69.1 (2) (c), variance required = 55' .

Property is located at 1926 & 1928 Route 9, Clifton Park, NY (Permit #80830)

Attorney, Anthony Ianniello, Ianniello Anderson Attorneys, representing the owners of Prestige, presented the application. He introduced Tom Andress from ABD Engineering and also introduced the owners of Prestige, Sunday and Joe Verillo. He explained that Mr. Andress will describe the project in detail and he will provide the criteria necessary for the variance.

Mr. Ianniello discussed the zoning ordinance which prevents building in an LC zone, which is why they need a use variance. He discussed the need for certain criteria to be met, the first of which is that no reasonable return can be expected with the current use of the property. He explained their case; the current use of the property is LC, which is an area of conservation, so there is no rate of return on it. The use variance they are asking for would allow a building, which is necessary to achieve any kind of reasonable return. He alleged there are unique circumstances to the property. He said this is because the entire surrounding area is zoned commercial so there would be no denigration of the neighborhood and the building would be consistent with all neighboring properties. He informed when the Verillos purchased the property, it was the site of a former restaurant, burned down and demolished, and the area of the easement was a parking lot. He stated that, had they left the lot, they would have been able to continue using it as a non conforming use. He asserted the hardship is not self created because originally the land was not zoned LC prior to the purchase and the area in question would not have been apparent because of the parking lot, so every thought was that area was strictly commercial. In addition, he alleged, the plan designed by the original engineer the Verillos hired was defective. The project was presented on a site plan that was approved by the Planning Board and that site plan was incorrect because the addition that was originally approved would have required a use variance also. He said the math itself was in error and the plan had many errors. He claimed if it had been prepared correctly, they would not be seeking a use variance now because a use variance would have been needed for the earlier plan.

Mr. Ianniello alleged no reasonable rate of return can be obtained the way it is currently zoned and there is only about 3000 square feet of the LC zone that would become a portion of the building. If it is built, there are five to six employees who could be hired for the new business that doesn't exist now. He explained the new business is for auto restoration of classic and specialty cars, a unique business only available in certain parts of the country. He indicated the owners of these cars would be coming from throughout the United States. He asserted that the 6,000 square feet of building is necessary for the equipment needed. He stated the original building of 3000 square feet would have required a use variance also and would not have been able to hold more than a couple of employees. He claimed the addition from the original engineer was totally impractical and in terms of cost, the addition had many angles in it. He explained that the 3,000 square foot addition would cost approximately \$91,000 whereas an addition double the size is only around \$94,000. He said it is impossible to generate a rate of return to pay off the \$91,000 expense, together with the inadequate equipment, if you only have 3000 square feet, and a few employees.

Mr. Ianniello introduced Tom Andress, ABD Engineers and Surveyors.

Mr. Andress discussed the property layout, indicating it is unique and 1/3 of it is wetlands and LC Zone. He repeated there was a restaurant which burned down and after that the LC Zone was put in place, and after that, the Verillos purchased the property. He explained the Verillos went to another area, finding it not as good, and came back to Clifton Park and pursued the construction of the complex in 2009 & 2010.

Mr. Andress showed the map of the site, explaining the 9800 square foot building and their proposal to build a 6,000 square foot building showing the LC Zone involved. He stated they went out and located the stream. He said the original engineer's design was approved by the Planning Board, but he didn't locate the stream correctly and the Verillos did not know that. Mr. Andress informed that of the 6,000 square feet, about 2500 to 2600 square feet would be in the LC Zone. He stated they had gone to the site, met with the Environmental Conservation Committee (ECC) to look at the LC Zone. He alleged this is a unique situation because the LC Zone is not a pristine area because it was an old parking lot and to the West is disturbed land. They looked at the pipe that dumps out directly into the stream which has been there since the restaurant. He said the pipe has caused a huge amount of erosion. With the ECC, they looked at, as part of the project, removing the pipe and re-routing the drainage and constructing wetlands to improve the LC Zone. He summarized they would be taking the outer edges of an old parking lot and rebuilding it into viable wetlands which would travel south and discharge into the existing wetlands and eventually end in the Dwaas Kill. He added this would be taking the water and running it through a filtering system and thru natural wetlands before it goes to the Dwaas Kill. He asserted that, because of that, the ECC approves of the project.

Mr. Andress referred to comments made by members of the audience when the application had been submitted previously. He alluded to the voiced concern for the Dwaas Kill. He stated the applicants and he had made statements both at the Zoning Board and the Planning Board regarding the property owner across the way who has cars overhanging the bank. He reiterated they are not going to do that and the point is they want to do something so the Dwaas Kill is protected. He again referred to the concerns of the audience regarding creating flooding problems and concern for the fish. He said the Dwaas Kill is twelve feet lower than the building and about eight to ten feet lower than the ground level so they are not going to be near the stream and will have no effect on the flood plain which is lower than the top of the bank.

Mr. Andress discussed the previous designer. He stated he knows the Verillos asked him to design for the maximum buildable area on that site and that is what they expected. (He referred to the map.) He said there was no problem with the green space because of a large amount of open space with the LC Zone and the wet area. He pointed to the building that had been designed (9800 square feet) vs the construction they are planning, approximately 16,000 square feet (9800 plus the 6000). He said the original building could have been built outside the LC Zone as it was represented, which was inaccurate because the stream location was not located correctly. He informed the building was angular. He alleged that now you can't just add thirty feet to what is there now with the glass showroom and the way things are set up. He stated everything would have to shift over and the access road would have to be

changed because trucks need maneuverability. He referred to the cost of building a 3,000 square foot building vs 6,000 square feet and the few thousand dollar difference.

Mr. Strother asked for clarification of the map. Mr. Andress explained the outlines. He said you can add on to the building to the North but can't push it as far as it should be and it would be more expensive than it should be if it hadn't been built in the beginning. He added they had gone through it with the Army Corps of Engineers and looked at the small wetland in the front and obtained a permit to disturb that wetland. He said that is for further development and doesn't affect the project except re-routing the pipe that runs through the wetland.

Mr. Dudick said he is going to re-state the message he gave the other applicants at the beginning of the meeting because Mr. Ianniello, Mr. Andress and the Verillos were not present until later in the evening. He informed there are six voting members sitting and four yes votes are required for approval of an application. He advised the applicant can defer to wait for better odds than four out of six although there is no guarantee that any one meeting all members will be present. Mr. Andress stated he is aware of that and familiar with the rule, and they are perfectly fine to continue.

Mr. Dudick said he is going to open the meeting up for discussion and then open it to the public.

Mr. Lemire referred to the current application dated 3/12/2013 and asked how is it different from the prior application.

Mr. Andress answered that the application has been modified. The previous application presented the overall plan with the complete development of the site and this one is just presenting what the use variance is. There is also a change from what the applicant wants to do with this new company.

Mr. Ianniello responded to the question adding that the major difference is presenting the application to go more in depth to fulfill the use variance criteria needed for the board. He continued that the previous proposal didn't adequately describe the project which is for a new business which requires a different facility.

Mr. Lemire asked if the footprint is the same. Mr. Ianniello answered it is the same footprint as the last application and of the building that was approved by the Planning Board, but a different building than the one that was approved. He reiterated that the building that was approved, they discovered later, would have required a use variance also.

Mr. Lemire asked if the footprint for the application of October 2012 is the same as the one present tonight. Mr. Ianniello said it is.

Mr. Peller asked for a copy of the footprint that the Army Corps of Engineers approved, for the record.

Mr. Dudick stated there are pluses and minuses on the application and referred to the messy LC Zone. He mentioned the debris from the restaurant and asked what kind of debris specifically, is there.

Mr. Andress answered it is rubble that was left after the removal of the asphalt, including pieces of broken asphalt but no wood. He stated it is more barren.

Mr. Dudick asked if the genesis for this request for a use variance comes from lack of space to start this the new business. Mr. Andress said that is correct.

Mr. Dudick said it is his understanding that the North building has the space but it is shared with another business that is leasing and operating in that building. Mr. Andress said it is correct and in addition there is still a shared use for the building, for example a compressor.

Mr. Dudick asked for verification that the business is the Times Union. Mr. Andress said it is storage. Mr. Dudick asked if the Verillos are aware that this business is dumping trash in the LC Zone. He explained he walked by there and saw piles of newspapers in bales in that area. Mr. Andress said he was not aware of it, and probably the owners are not, but they will take care of it.

Mr. Dudick said it worth mentioning that some of the cleanup is trash that is coming from that site and is recent.

Mr. Lemire asked for details of the new business. Mr. Ianniello answered it is a business restoring cars that are owned by third parties who are looking for a company to take their vehicles and bring them up to certain standards. He added some are show quality.

Mr. Lemire responded he was under the impression Prestige is already doing restoration. Mr. Ianniello answered Prestige does restore its own vehicles to sell but it does not have any kind of substantial business for restoring for third parties.

Mr. Gifford asked if they ever use their facility in Halfmoon and questioned if they move cars back and forth.

Mrs. Sunday Verillo stated they use that facility to restore their own cars. Mr. Gifford asked if they do any other cars there, and Mrs. Verillo said "no".

Mr. Lemire asked what is the difference. Mrs. Verillo answered that is it a new business that would require more employees and more space to start that business.

Mr. Lemire repeated it is the same business but you started doing more work and you need more employees. Mrs. Verillo stated yes, but they are looking to start a different business.

Mr. Dudick stated he wanted to discuss the issue of what they say is a self created hardship. He said the LC Zone existed at the time of purchase and is the same LC Zone now and as it was when it was purchased. He asked if that is correct. Mrs. Verillo answered that is correct.

Mr. Dudick questioned why is it not a self created hardship if they knew it at the time of purchase. He repeated they had purchased the property knowing there was a Land Conservation Wetlands and they built buildings of their own design given the specifications by the person they hired and now they have decided the buildings are not satisfactory. He stated he is trying to get over the point that they knew about the land before purchase and he does not understand why the applicant believes that is not a self created hardship.

Mr. Ianniello responded that when they purchased the land, visually part of the land was covered with blacktop as a non-conforming use. He said that part of the LC Zone was already established as a non-conforming use as a parking lot at the time the LC Zone was created.

Mr. Peller asked Mr. Ianniello if he did not agree that the non-conforming use dissipated once the parking lot was removed and once the foundation of the other building was removed. Mr. Ianniello agreed it did.

Mr. Dudick commented that without a building there and without a parking lot there, it was no longer a non-conforming use there, and asked if Mr. Ianniello agreed.

Mr. Ianniello responded that the design that was submitted did not require any use variance.

Mr. Dudick again asked if, without a building or parking lot, was there, in his mind a non-conforming use for the non-existent building and non-existent parking lot?

Mr. Ianniello responded they could have re-established the parking lot within the time frame.

Mr. Dudick asked Mr. Ianniello when that time frame expired, if there was a continuance of the non-conforming use.

Mr. Ianniello answered "no" because the design proffered by their engineer no longer required the use variance, inaccurately. He alleged the situation was not created by the applicants, it was created by third parties.

Mr. Dudick asked if they are not responsible for the decisions of the people they hired.

Mr. Ianniello answered they did not create it themselves and the circumstances here are very unique. He said they are seeking to take land that is not occupied and not available for any kind of commercial use and trying to use a portion of that LC Zone for

commercial purposes so they can achieve some sort of reasonable rate of return for the project to employ people and generate sales and property taxes.

Mr. Lemire asked if the applicant is going to sue the engineer.
Mr. Ianniello answered they are contemplating it.

Mr. Lemire commented, if the property was purchased in 2000 and in the 2008 there was an application for the use variance, they were well aware the LC Zone existed and the two buildings on the property were constructed for the best use of the applicant. He said as early as 2008 the applicant knew about the LC Zone and now the applicant is coming forward with another application. He added that he is having a difficult time that the hardship is not self created as they were well aware of the LC Zone

Mr. Ianniello responded that the applicant was not aware that the addition that was contemplated impacted the LC Zone and it was determined subsequently that a use variance would have been required. He reiterated they were not aware of that.

Mr. Lemire asked for clarification if that is the 2008 application.
Mr. Dudick asked for a copy of the approved plan for the building.

Mr. Address said it is shown on the outline they provided. He said subsequently to that he was employed by the Verillos to locate where the stream is. He said that was enough to make the irregularly shaped addition not viable in that configuration.

Mr. Address said they would have to modify the plan to stay out of the LC Zone. Mr. Lemire commented that the addition that was approved in 2008 by the Planning Board for 3000 square feet was contingent on the LC Zone. Mr. Address said that was correct but at the time they were not aware it was in the LC Zone.

Mr. Lemire said to even build the original 3000 square feet approved by the Planning Board they would still have to get a use variance. Mr. Address agreed they would have needed to come to the Zoning Board or reduce it down to 2600 square feet.

Mr. Lemire responded to Mr. Address saying your client chose to go the other way and ask for 6000 square feet. Mr. Address replied they asked for the 6000 square feet before. He asserted the builders said the other building wasn't viable to build because of the angles and expense. He continued, in addition there were other issues, a lot of drainage issues, that were not done the right way, and referred to the underground holding tank which wasn't needed.

Mr. Lemire asked, if his understanding was correct, that the Verillos did not know about the impingement on the LC Zone when the Planning Board approved the other plans. Mr. Address said that is correct and that was the understanding of everyone. He said they found out when they did a more accurate survey.

Mr. Verillo said he was the one involved with Dave Bogardus, the engineer. He explained they were almost finished with the building when he went to Steve Myers and talked about the wetlands and the water retention pond and said he never knew it would be like this and asked for guidance. He asked Mr. Myers what they should do with the pond. Mr. Myers said they should build a fence around it, but since they didn't need it they could take it out. Mr. Verillo said they paid to have it torn out and came to the Zoning Board for a variance build the parking lot in the front. He alleged they were railroaded from the first engineer because there was 17,000 square foot more they could have built on the property. He stated he had told the engineer he wanted to build the two biggest buildings he could on the property and they didn't get what they thought they did. Mr. Verillo added they have been digging out of their pocket ever since and expressed his opinion that if they had had Mr. Andress do the design, they would have gotten what they needed and they wouldn't be paying another engineer and attorney. He stated he did not know about the wetlands and he trusted others and learned the hard way. He explained the map and repeated they would have had 17,500 square foot more.

Mr. Lemire discussed the minutes of 2008 and asked why they did not build the larger 18,000 square foot building.

Mrs. Sunday Verillo answered that was when they first started in 2000 and they couldn't afford to build the 18,000 square feet. She said then they came back to build it when the use variance for sale of used cars was granted. Mr. Lemire asked why wasn't one building of the maximum size built. Mrs. Verillo answered it was because they were not given the advice and relied on someone in that field.

Mr. Dudick called for a 10 minute recess at 8:45.

Mr. Myers clarified that the 2008 application was mainly to sell cars in that location as that wasn't an allowed use. The application was for a use variance. He stated Mr. Verillo did come to him from time to time to ask for his advice and about the retention pond. He said he looked at the code and saw it had changed and the pond was not needed and that is why he got to fill it in and park the cars in the front. Mr. Myers stated he had some other drainage issues that they worked out and adjusted on the site. He said he remembered one time Mr. Verillo's engineer disagreed with him but Mr. Myers said he told him it was not his call.

Mr. Myers explained that the 2008 application was for a use variance, which was approved, and the building issues came since then. He stated he believes that the end product they are proposing is better for the Dwaas Kill than what is there now but as for the hardship issue, that is the Board's decision.

Mr. Frank Berlin, 980 Main Street, Jonesville, spoke. He informed the Board he was there to refresh people's memories of what the Town did in November 2001 and said he differs with people not having concern for the 100 foot buffer zone. He discussed the Open Space plan which was initiated in 2003 as a result of a town-wide survey. He explained that 8000 letters were mailed to residents, at taxpayer expense, asking their

opinion. He said they received a 30% return (3043 responses) which was unheard of when usually the response rate is 2-3%. Mr. Berlin gave the board a copy of the summary of survey responses. He cited examples of the result: concern about streams and having a buffer zone.

Mr. Berlin expressed the opinion that if you have a stream which is already bad on one side, it's not OK to do it to the other side. He calculated that leaving 20 feet to go around the building, and 55 feet of the building already in the zone, it leaves a 25 foot buffer from the stream. He added there is more than just the fish operation there, for example animals and turtles and brook trout spawning.

Mr. Berlin read some of the survey results from 2001:

Ques #1 – importance of securing additional open space in the town

92% said highly or somewhat, no one said not important or didn't care

Ques #4 - importance of securing additional conservation for wildlife

87% positive

Question – securing land and quality of drinking water – 94%

He summarized that the population thinks it is important, and they believe we have a 100 foot buffer along our streams. He said what he distributed is the guide the Town uses.

Mr. Berlin stated he thinks that to put a building in there is a terrible precedent and people who filled out the report think that way. He said he thinks that we owe it to the town and this is something it didn't plan to do. He continued that if you have property that is near there this is something you are not supposed to do. He added he isn't sure they can even put storm water in there. He mentioned that wood turtles go back to the same area every year (saying he doesn't know if they are in this area) but if you disturb that and others do it, it is a terrible precedent. He talked about the damage on the other side of the stream and suggested that because it was ruined doesn't mean you do it again and again.

Mr. Berlin referred to page four which identified the statewide significance of the Dwaas Kill which is a major aquifer and a priority project of most importance for open space to protect. He suggested there is a lot going on there. He referred to the policy statement about protecting the ecological system, soil erosion and habitat and wildlife, clean air. He said he was concerned about spraying cars there and hoped they have protection. He said he believes we can have business and still have open space in town if we do it wisely. He stated he thinks Clifton Park is way ahead in that.

Mr. Berlin referred to Supervisor, Phil Barrett's quote “we need to preserve these sites for future generations”. He suggested maybe they should have some people bring some dirt in there and clean it up so it is pristine rather than put a building in there. He asked why not clean up the mess rather than put more there.

He referred to the high water mark and mentioned there are only three streams that have a 100 foot buffer; Coolie Kill, Dwaas Kill and Stoney Creek and that all other streams and tributaries have 50 foot buffer. He referred to a Department of Environmental Conservation representative who suggested they could put anything they want into the Longkill buffer area. Mr. Berlin stated this town protects its land better

than the state does. He cited the ACOE who “protected the New Orleans and the Everglades and coast wetlands” and let them fill in those areas, and added his opinion that they are the worst people to go to. He said he thinks that the ACOE does not care about the wetlands on your property.

He indicated he believes that, according to the regulations, the buffer starts at the high water mark, not at the middle of the stream. He said he thinks the high water mark is a couple hundred yards from the stream, and thankfully, because there are huge floods in there, it is great because it acts as a reservoir.

Mr. Berlin summarized that he believes this is a bad thing to do.

Mr. Peller asked Mr. Berlin to give a copy of his handout to the applicant.

Mr. Dudick stated this is a unique property that has a lot going on within 100 yards of the property including Rt 9, a railroad and railroad bridge and the Dwaas Kill is impacted by the surrounding issues. He asked how the 100 foot buffer was selected and a gentleman in the audience called out it should be a lot bigger.

Mr. Raymond Seymour, 7 Nadler Road, Clifton Park, spoke next. He said accumulating is a good term. He related he had lived in Clifton Park since 1968, at which time the population was 6500 and the land was mostly farm and forest. He said today it is the population center for the whole county and the land is going from farm to residential, to industrial to retail and commercial. He talked about the open space plan created by the town and how it was a conscious effort to identify the remaining land in the town. He pointed out that the acreage available in the LC Zone is a small area compared to acreage used for other purposes. He asserted this land has to be protected, we can't ignore it. He said there is a tendency to look at it by parcel by parcel and ask how can that hurt because its only a small project. He said it is a debate that should be handled in another area and small projects accumulate. He indicated he feels that deciding to violate this sets a precedent and the next person coming in is going to ask for the same. He summarized we have lost a tremendous amount of acreage already and a lot of streams no longer exist.

Mr. Dudick explained the board looks at hardship situations and in every case they have to look at that. He assured that they are not trying to get around it, but sometimes there are things that need to be considered and each application is, from a Zoning Board perspective, viewed as a unique thing.

Mr. Bill Koebbeman, 861 Riverview Road, Clifton Park, said he had written a letter for the record and in it documented several meetings that occurred in 2008 and 2011. He asked the Board to deny the application because it does not meet the requirements of the Clifton Park Zoning Code in that the hardship claim is a self created hardship. He asserted that a review of the history leaves no doubt that when the applicant went to the Zoning Board in 2008, although it was for a use variance to sell cars, they went forward with their building knowing there was an LC Zone and they had to stay out of it. He referred to his letter which he said documents that. He quoted a section from the case

study of Clark vs Board of Zoning Appeals the Court of Appeals of New York which observed that “one who knowingly acquires land for a prohibited use cannot thereafter have a variance on the ground of special hardship”.

Mr. Koebbeman said the question before the Zoning Board is what is the special hardship and was Prestige Motors aware of the LC Zone, of which they now complain, when they went to the board in 2008 for a use variance. He said he believes they were aware of it and moved forward, and he had documented that at the meetings where at least three members of the public voiced their opposition of building in the LC Zone.

Mr. Koebbeman indicated that Mr. Myers had stated that protection of the Dwaas Kill would be strictly enforced. He referred to the town engineer, Mr. Grasso, who, at two different Planning Board meetings pointed out the constrained development areas considering the limits of the LC Zone. He then referred to the ZBA counsel who said the LC Zone would not be affected in any negative way and that Mr. Dudick has said he does not recall any use variance in the LC Zone. He added the applicant's own developer, Mr. Bogardus had stated that the applicant recognized the constrained development area and assured the public and Mr. Koebbeman directly, that the applicant would not in any way impact the LC Zone.

Mr. Koebbeman summarized that, given this history, it is inconceivable that the applicant can claim they were unaware of the prohibitions imposed by the LC Zone, and therefore if the developable area on the property is too small for their purposes, it is a hardship which was self created and not a hardship under the Clifton Park Zoning Code or under the Court of Appeals precedent of Clark vs the Zoning Board of Appeals.

Mr. Koebbeman pointed out that the Saratoga County Planning Board requested that the building plan be modified so it was not in the LC Zone. He read the finding, saying the Board stated the steep slopes in the area which were already eroded at the site causing a negative impact on the Dwaas Kill were all reasons expressed by the Board for the reasons in their decisions.

Mr. Koebbeman added that he did not agree with Mr. Myers opinion that the changes would have a positive impact on the Dwaas Kill. He said he feels the ECC shouldn't have gone to the point it did, but it is good because it will come out again. He alluded that it had gone to the ECC and approved by the ECC at that same meeting. He read from the minutes of the meeting which read that approval was pursuant upon review and approval of the Town Engineer to ensure storm water management plans and construction plans comply with the state and local requirements and do not impact the Dwaas Kill. Mr. Koebbeman reminded the Town Engineer had already said to stay out of the LC Zone.

For the record, Mr. Dudick submitted a letter, dated April 29, 2013, from the Saratoga County Planning Board signed by Jason Kemper, written in regard to the April 16, 2013 Zoning Board hearing of the Prestige application. He read the letter which stated its disapproval for the project for the reasons indicated in their letter of October 23, 2012 on Prestige. He gave copies of both letters to the applicant.

Mr. Jim Ruhl, 168 Wood Dale Drive, Ballston Lake, spoke next. He stated he is opposed to the granting of the building extension variance. He referred to the Town comprehensive plan which addresses three goals 1) reflects the Town's land use objectives and future character coupled with the existing and available resources 2) the plan outlines the zones that are to be implemented into the Town's zoning codes 3) the zoning codes outlines procedures and adjustments that necessitates the creation of the Zoning Board of Appeals. He continued that the Zoning Board may grant any use or area variance based on hardship but may do so only on very narrow and specific grounds so as not to destroy the intent and objectives of the comprehensive plan of zoning Law. He said the presumption is against any applicant for a variance with the burden to show or prove hardship intended to be a difficult one. He read from the Department of State technical series, written by James Coon "Section 208 (1) (9) (c) explicitly states that no use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that regulations and restrictions have caused unnecessary hardship. He continued, based on various court decision the zoning may place a hardship on the applicant, but not an unnecessary hardship such as arbitrary or capricious or excessive or inordinate hardship. For example, an inconvenience or desire to increase one's return on the existing property does not qualify as an unnecessary hardship. The fact that another permitted use may allow the sale of property for a better price or permit a larger profit does not justify the granting of a variance on the grounds of unnecessary hardship."

Mr. Ruhl summarized that unnecessary hardship is the operative phrase, not just hardship. He stated that, for this property, no financial hardship is indicated by the Planning Board in the minutes of October 12, 2011, and in fact the applicant testified that if the expansion is not granted, it is their intention to construct the 4,500 square foot extension that lies outside of the LC Zone as well as the 3000 square foot addition to the building along the south property boundary. Mr. Ruhl suggested in recent narratives and descriptions Prestige's reasons have opportunistically changed and at this point it is only the 3000 square foot addition since the 4500 square foot addition was withdrawn from the most recent proposal. He asserted, they now maintain only the 3000 square foot addition will allow them a reasonable rate of return, but the facts do not confirm it.

Mr. Ruhl stated his opinion that the large building on the north side of the property is being leased and could provide a large amount of space for the existing auto business. It is leased by Hearst corporation and accordingly covers a large portion of Prestige's overhead costs, which he said was stated in an article of Business Review of October 4, 2010. Mr. Ruhl speculated this is obviously not a corporation under fiscal duress. He suggested that the apparent success of the entire site should be taken into consideration for reasonable rate of return, not just the profit associated with the addition. He alleged that, based on site considerations and observations, the success of the site is obvious.

He pointed out that using the large building on the north side of the site may be an inconvenience but it is not an unnecessary hardship.

Mr. Ruhl summarized that neither a larger profit or an inconvenience is a sufficient hardship to grant the applicant this variance. He added that regardless of any new construction, it is extremely important for the conservation of the site that existing drainage problems associated with the present building and drain patterns be addressed. He suggested that erosion problems, especially the outflow of the drainage pipe, should not be linked to expansion approval. He asserted that the problem was created by the applicants and should be remedied by them independently of any site approvals, in other words, water disposal issues should not be a link to invading the LC Zone.

Mr. Ruhl listed the criteria for hardship for a use variance which he had discussed in his October 12, 2012 address. He indicated he had just addressed the hardship issue with the narration above. Second, he listed the unique circumstances cited by the applicant. Mr. Ruhl stated they hinge on inadequate installations and inadequate drainage that should not be cited as unique circumstances but instead self inflicted hardships. Third, he stated the essential character of the neighborhood is not that it is a commercial zone, but that it is the Dwaas Kill a unique characteristic that defines the neighborhood that already is being spoiled by the LC Zone intrusion by a junk yard which has been illegally established. He suggested that another intrusion into the zone will only compound the creeping ruination. He stated that fourth, the applicant is trying to place too many structures on too small and too confined a site. He cited the language pertaining to the Land Conservation Districts was included in the Clifton Park Zoning Code in 1998 and it specifically called out for the 100 foot buffer for the Dwaas Kill because it is listed as an impaired waterway. Mr. Ruhl reminded that the applicant stated they bought the property in 2000 and said they should have been aware of the zoning as it applied to the parcel. He stated a lack of due diligence concerning the purchase of the property and faulty engineering by the applicant's land use firm is not an unnecessary hardship but self created due to inadequate oversight by the applicant. Furthermore, in multiple appearances before the ZBA and Planning Boards the applicant has stated there would be no incursion into the LC Zone.

Mr. Ruhl cited the following as further reasons not to grant the variance. He said the intrusion into the LC Zone is 55 feet, not 45 feet as cited in some of the literature, which is over half the distance into the LC Zone's 100 foot buffer. Second, construction access for foundations, grading and material handling will further destroy additional portions of the LC Zone beyond 55 feet.

Mr. Ruhl said third, and most important, is Section 2869-3 of the zoning code which contains eight additional standards for building or soil disturbance in the LC Zone. The critical requirements revolve around alteration of the flow of water and increase in the velocity of surface water runoff and none of this is mentioned in the study. He reminded the structure will be located in the Dwaas Kill flood plain as depicted on the FEMA maps which could disastrously impede flood level water flows and thereby produce scouring of the foundation of the requested addition.

Mr. Ruhl summarized his conclusion that it is obvious that Prestige Motors is exercising all its options to enlarge its buildings on this confined site. He said the present proposal

gives little credence to the environmental and ecological value to the Dwaas Kill corridor while providing no showing of credible hardship. He continued, saying the ZBA must not sabotage the integrity of the comprehensive plan and the zoning law and the intent of the Town Board and Planning Board for short term convenience and profit of the applicant.

Mr. Dudick asked Mr. Ruhl in what field he holds a PhD.

Mr. Ruhl answered it is in Political Science and State and Local Government.

Mr. Strother informed he had walked around the property and he could see the area already has problems including the parking lot. He said there are issues to the south and definitely to the north. He alluded to Mr. Dudick's remarks about things falling off the trains along the rail but thinks it can get better as time goes on. He said that area needs restoration on a big scale in the next century and giving back pieces of it is counterproductive. He said cleaning up the drainage is an interesting idea, but it doesn't give enough value to giving up 3000 square feet of the zone. He added there are things growing down there and it appears to be a swamp or marsh. He said the dumping of fill was intentional and is some level of restoration. He said there is some level of management going on there already. As far as storm water management even with the rubble if they had a 100 year flood, that level would be significant. He suggested he thinks this is just the beginning of further action and better enforcement. He added, however, he did not think it was not fair to say that the applicant had schemed to fool anyone, but he still cannot support the project.

Mr. Andress informed he has been in the business for 37 years and they employ wetland experts. He stated the land is not in the 100 foot flood plain and if you look at the elevations and the Dwaas Kill, it is much lower than the land. He said there are not areas established for the flood plain.

Mr. Strother commented that it would take a big flood.

Mr. Lemire stated that doesn't stop the buffer from being 100 feet.

Mr. Andress said the more important statements made by the residents were based on the fact they would have some type of effect on the LC Zone. He mentioned the ECC looked at it and made recommendations for improvement that they can see has value. He said now the storm water runoff is going straight into the stream. What they propose to do would take that straight connection and create a wetland. He said the 3000 square feet they want to use is mostly gravel and what they want to do is a positive and would help restore the area. He stated they would create the wild flowers and create the wetland area. He added the LC Zone wasn't an LC Zone when the restaurant was in place and that the pipe that was mentioned was there for the restaurant and not created by the applicant. They didn't change it except to make sure it wouldn't collapse when they put the pavement in. He repeated they are going to do a positive on the LC Zone and this is supported by the ECC, which is fairly rare they would make that recommendation.

Mr. Ianniello stated that Mr. Andress is well qualified to do the project. He said he thinks they should set aside the issue that it would have a negative impact on the Dwaas Kill and if they go forward with the project the improvement would be substantial over what has been in years past. He stated at the time the Verillos bought the property it was not very attractive. He said they came in with ideas as young business people who took risks and are still working and still struggling and not retired. He said they transformed the land and made it productive and attractive and produced taxes for the town. They have made a business work in a parcel of land that was desolate in a location that is not one many businesses would want. He repeated they made that part of town attractive. He suggested focusing on the issues. He said the town has provisions for a use variance and for planned development districts which are well known concepts in the law to allow the town the flexibility to do what is not in the current zone. He stated in this case it is for a use variance and there are criteria and he thinks they have presented evidence that Mr. and Mrs. Verillo had no idea they would ever be here asking for a use variance. He alleged they did not create this themselves. He said they bought the property in good faith and whatever they built has been in conformance with zoning law, two beautiful buildings. He referred to their use of one building for other purposes and pointed out they have a lease on the building and the tenant has the right to use the building. He stated they can't ask the tenant to leave, so the option is to try to use the other building for the manner in which it was intended and that use involves an addition. He said the law allows them to come in here and ask for a use variance given the facts they presented.

Mr. Ianniello said there is a very small portion of the LC zone they are asking for. He stated that portion of the LC Zone can produce no income for the Verillos. What they are asking is that that portion of the LC Zone be combined with existing land that they can use so they can produce a fair return on the investment. The investment is going to be well over \$90,000 and in order to make that investment work and produce sales and property taxes and to employ people they need a use variance. Mr. Ianniello asserted they have demonstrated all the criteria here.

Mr. Lemire stated he doesn't understand his position that they can't get a reasonable rate of return and asked if they are talking solely about the portion of property in the LC Zone.

Mr. Ianniello said "no" and explained they cannot get reasonable rate of return on the property in the commercial zone, and they cannot utilize that square footage unless they combine it with the square footage in the LC Zone.

Mr. Lemire asked what is stopping them from building a 6000 square foot addition on another portion. Mr. Ianniello answered it is totally impractical.

Mr. Lemire asked how this is an unnecessary hardship. Mr. Ianniello answered it is not a self created hardship.

Mr. Lemire stated the reasonable return is on the whole parcel and asked why can't they realize a reasonable return on the whole parcel by putting the 6000 square foot addition some place outside the LC Zone.

Mr. Ianniello said a reasonable return is based on the parcel of land where no building exists for which they originally obtained approval to build on.

Mr. Lemire stated they never obtained approval to build in the LC Zone. He questioned is he saying they can't realize a reasonable return on the property in the LC Zone? He said he didn't understand his position.

Mr. Ianniello explained there is a parcel of land upon which no building exists and they would like to develop that parcel of land, and the only way they can develop that parcel of land in a manner in which they can obtain a reasonable rate of return they need is to attach a portion of land in the LC Zone. Mr. Lemire asked if that is the 6000 square foot addition they propose. Mr. Ianniello repeated twice that they cannot achieve a reasonable rate of return on that parcel without using a portion of the LC Zone.

Mr. Lemire asked where the competent financial date is to show they cannot use other parts of the parcel. Mr. Ianniello answered that Mr. Address had presented drawings to show that you cannot put an addition on the front of the building. To build an addition on that portion is impractical because of showroom doors and other features.

Mr. Lemire asked about the back portion of the property. Mr. Ianniello responded the back portion of the property cannot accommodate a building of the size which will generate a reasonable rate of return. He explained that is why the request for the use variance to attach LC Zone square footage to the land they could build on to obtain a reasonable rate of return.

Mr. Dudick asked what the financial information was and Mr. Ianniello said it was the cost estimates for a 3000 square foot addition versus a 6000 square foot addition, the cost he said, is virtually the same.

Mr. Dudick questioned if he was saying that the applicant cannot get a reasonable rate of return unless the variance is granted. Mr. Ianniello answered they cannot build on the land they are allowed to build on and get a reasonable rate of return without using a portion of the LC Zone.

Mr. Lemire referred to the map, and asked where is the financial date to show it is an unreasonable hardship if the 6000 square feet is moved to the North.

Mr. Address answered they looked at that but it blocks the access for tractor trailers because there is no circulation through the property. Mr. Lemire responded that is an engineering answer to his financial question. Mr. Address said he can't answer to the financial on that.

Mr. Dudick said he feels comfortable that they have addressed this application from several standpoints. He made the motion to close the public hearing. Mr. Strother seconded the motion. All approved. Public hearing closed.

Mr. Dudick summarized and said there are many different viewpoints and many wheels on the train.

Mr. Strother made the motion to disapprove the application. Mr. Lemire seconded the motion. Mr. Dudick said a vote of yes would be to disapprove.

Mr. Ianniello suggested making a motion to approve to vote on as this is making a negative to a negative. Mr. Dudick agreed. Mr. Strother withdrew his motion. Mr. Bloss made the motion to approve the application. Mrs. Standaert seconded the motion. Mr. Dudick explained four yes votes are necessary for approval.

Mr. Bloss made the statement that he had been looking this over for months and trying to find the right trigger to help and trying to get information about improving the wetlands but he just can't get over the legal parts pointed out by Dr. Ruhl and what the Board members have all been trained in.

Ayes: Standaert Noes: Lemire, Strother, Dudick, Gifford, Bloss

Mr. Dudick stated the application is denied.

Mr. Ianniello requested a copy of the transcript. Mr. Dudick responded he could have it as soon as the minutes were approved. Mr. Peller informed they are posted on the website but he would be sure he gets a copy.

Mr. Dudick summarized the decision that the application was denied based upon the evidence presented by both the public and the applicants, taking into consideration the standards they use.

Mr. Strother made the motion to approve the April 16, 2013 minutes. Mr. Gifford seconded the motion. All present approved. Minutes approved.

The next meeting is May 21, 2013.

Mr. Dudick made the motion to close the meeting. The motion was seconded by Mr. Bloss. The meeting was adjourned at 10:05 pm.

Respectfully Submitted,

Susan White
Secretary

cc: Town Clerk, Town Board, Town Attorney, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, ECC, Assessor, Highway