

**TOWN OF DOVER ZONING BOARD OF APPEALS SPECIAL MEETING HELD ON WEDNESDAY, July 16, 2008, AT 7:00 PM AT THE DOVER TOWN HALL:**

**PRESENT:** Chair Marilyn VanMillon  
Member George Wittman  
Member Rosalind Cimino  
Member Anthony Fusco

Also in attendance was Secretary to the Board, Maria O’Leary and Attorney Thomas Jacobellis.

Chair VanMillon called the meeting to order at 7:02 pm and began with the Pledge of Allegiance.

Chair VanMillon read the first item on the Agenda as follows:

Continued Public Hearing - CAMP RAMAH – Z 2008-02 – The applicant seeks two variances to appeal Section 145-11 B. of the Town of Dover Zoning Law. The requested 9,576 sq ft area variance and the requested 25’ area variance would, if granted, allow the applicant to erect a gymnasium on the property without meeting the required 6,000 sq ft maximum and the required 40’ front yard setback from Ramah Road for the RU district. This property is located at 91 Ramah Road, Wingdale, NY, on tax grid #132600-7161-00-610450-0000.

In attendance was the applicant, Curt Johnson of Zarecki & Associates and Rabbi Resnick of Camp Ramah.

Chair VanMillon asked if there were anyone who would like to address the Board on this application.

**Susan Howard**, 58 St. George’s Road was sworn in.

Comments from Ms. Howard: I am one of the very, very residences to Camp Ramah. My concern on this matter is that certain ordinances have not been complied with to begin with. I would like to know why a variance is being sought and I combine this, and I know this is the jest of this meeting, but I combine it with all the other concerns, I know that this is a 270-acre sight of property and I don’t understand from the get-go why the two areas that have residences abutting on the property are basically the victims of the noise that comes from the camp. A lot of people have rebutted this kind of comment with, “We want them out of there, we don’t want them to be there” nothing like that whatsoever, it simply a matter of cordial compliance and understanding that there are residences in the area, and my question from the start has been why aren’t some of those 270 acres of the camp... I’m sure some are not buildable, I would imagine, but many would be, taken into the interior, some of the activity, so that those residences on the two north and south sides of the camp wouldn’t have to deal with quite so much over-the-top noise, for one thing.

If this structure, and I know there are so many structures already on the Camp property, but if this structure were to somehow mitigate some of the noise that we’re experiencing now, it would go along way and I would like to understand how that might occur, how that might make that possible, and there is much to say, I have a folder of things, of noise logs that I have kept over the years, I’ve just returned to the area now and I keep wanting to say every time I have a feeling that it is somewhat lessened and abated, that thank-you and God bless and everything,

and I haven't felt that the last few days that I have been there, I haven't, but actually one of the real concerns for me is the other side across the lake which amplifies and that's another situation, another camp.

I want to know, and I know Chris Galayda also wants this mentioned, that the compliance in the camp with already existing structures are met, are seen to, are expected before any variance is granted and that we have some consideration that things will be done to comply with the noise ordinances that are already on the book in the Town, so this has been a real major concern over the years for me, I know they've been there a long time, I know I missed a lot of years, I remember as a youngster Camp Kiwa, and I don't remember the level of noise, I know there are far more children there, and this, too, is a question, whether that complies with the number of clients, children that are allowed, to be there on this property in the summer, there's all kinds of questions that stem from this issue as well.

I just met a couple of the children on a bike as I was coming out and I take whatever infrequent opportunities that I have to talk to them because I feel that cooperation and talking even with one person can go a long way; they were delightful, lovely, and they understand so I have a feeling that when they're doing their activities if one child were to say, "Hey, there are residences there" that it might go a long way. I believe that communication is the essence of these matters and I just haven't felt that that's been happening, and I've tried and I want to resume a friendly relationship with the camp myself, but these are concerns, so I would hope that all these items are brought to there on this subject as well.

Member Wittman: Have you approached anyone in authority at the Camp about your concern?

Ms. Howard: Yes. I know that Tom Kelly (should be Mike Kelly) is no longer with us, but I had spoken to him and he made certain offers which didn't seem to make sense at the time, like building a wall there, anyway that we could address, I wrote letters, I made calls, I had missed one opportunity because I wasn't getting messages on my cell phone when I first came up, this was about four to five years ago now, and I was supposed to meet with Rabbi Resnick on a Sunday, he offered that to me, and it was months later that I found this message on my cell machine and I called immediately to apologize for that and, of course, he hadn't come up because we hadn't made the plan, and then I never, ever got a call back. I did speak with Steve Eisen, their accountant, who was very pleasant on the phone, but nothing really, I always had this feeling like we've tasted blood, but I'm hoping that would change and I've always wanted to meet with them and sit down in a cordial way, that's been my hope all along and I've made calls to the camp property and left messages that never seem to have been received and always hated calling law enforcement late at night, but sometimes it just seemed absolutely necessary to do that and again, I hope we can resolve everything.

Curt Johnson: I know that the camp has made a conserved effort since the last meeting to try to revisit the idea of the noise issues and has tried to implement some things to reduce that and Rabbi Resnick will be able to speak to that in a little bit. A couple of issues from that last meeting, the building itself, one of the major ideas of why this is happening are being proposed, is centralize some of the sports activities; a lot of them are being spread out throughout the site now we're trying to pick a localized site, it's near the dormitories and the cabins and create something that would be central for all the children to congregate in.

There are a series of outdoor playing courts that, they won't be abandoned, but I think a lot of the activities will be transferred to the inside of this building, which will abate a good amount of noise, I would assume, or maybe in an enclosed building. It will have an insulation system on

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the inside which will help absorb some of the noise, so that's a lot of the effort why this is being done. An enclosed area that's more controlled, noise can be controlled; kids can be in a central location, so those are the issues there.

A couple of issues that came up from the last meeting, Mr. Fila had mentioned about the Appalachian Trail; we did a quick little study on that. The Appalachian Trail is up Mt. Schaghticoke and it's over a mile away from the actual site, it's at the ridge, it kind of circles the ridge and goes back into Connecticut, so it's a good distance away. (He then pointed to the view shed on a map) Mr. Fila had said that you may be able to see the north side of the building with very good eye sight. We would be proposing to plant some fast-growing evergreens on the north side of the building, these can get 40' tall or so, so that would help shield the view-shed a little bit, if you actually could see the building, so it will help soften that. The other three sides basically have existing vegetation, mature coniferous and deciduous trees that will shield that by the sheer nature of the existing conditions. I think the other issue was the insulation of the building and just noise absorption and keeping things inside.

Member Wittman: Is that noise insulation possibly do-able?

Curt Johnson: Yes, it's actually energy miser system that goes along with the metal building system that's being proposed. It's a batten insulation that goes on the inside and gives it somewhat of a finished interior, but it also absorbs noise. The building will be tempered during the winter months, but it won't be up to comfortable temperatures, so that will help with the insulation quality as well.

Rabbi Resnick: A few things in response to the last meeting and a response to a letter that I sent out to our neighbors who were here at the last meeting. We made one major problematic change in camp, and that is trying to not use the stadium courts, which are the basketball courts. You asked us last time how old they were, about 20 something years, major site in camp, the whole camp can sit there, very few places can we get all campers and staff, and all of our programs and facilities are per Code, Board of Health, Town of Dover, NYS, American Camp Association, and our own standards, and we try to not use the stadium courts as much as we usually did in the last two decades. Not eliminate using them late at night, but a few kinds of examples... last night we had a big pep rally, we had a sports day today, instead of bring the large speakers down and having large speakers blast loud music, we had one amp with one speaker with a microphone, no blasting music. The kids commented about it, they understand, they don't understand, I guess they'll learn to understand that they can still have fun without the loud blasting music.

July 4<sup>th</sup> concert event that we have done sometimes with fireworks that we did the last two years, for the previous six or eight years we had the same band up in camp out on the stadium courts, big open area, lots of dancing, we moved that indoors to our social hall. Also, not as much fun, not as much space, a lot more sweating, a lot more confined, but the kids eventually will get used to that, too.

During staff week, we have a big get-together right before the kids come up, a last hoorah before all the campers come up, and instead of doing that, also on the stadium courts, we did it inside. I probably have another eight or ten such examples, might sound a little petty and boring, but really problematically has changed the way we do things in camp in response to the last meeting we had here.

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A much more minor thing, though, perhaps concerns some of our neighbors on the other side of camp. We've started to install new hinges, which don't allow the doors to bang as much in the camper bunks. There are two doors to every single camper bunk, there could be a lot of banging at 7:00 a.m. or 10:00 p.m., these new hinges allow the doors to close a little more quietly and not hear that banging.

Finally, I'd like to say that these changes have been made kind of in better realization that we're part of this community for the last four ½ decades, and feel that this is our summer home. We don't live here year round, we try to be part of the community at least the two, two and half months that we're in full operation and probably another few weeks pre-season, post-season in smaller groups, and building this gym has been something that's been on our agenda for literally two decades; we finally raised the right funds for it, and as Curt said earlier, I think that it will be a major "wow" in camp for the campers. There are staff members who are now in their 20's, there are alumni in their 30's who said, "Oh, yeah, we're going to build that gym" because we used to say that 10 to 20 years ago, and because of the "wow" nature of the facility, it's going to be used a lot. Kids and staff are going to want to use it. As Curt said, it will not eliminate, we have fields all over camp, we had 570 kids on opening day in camp this summer; we're not looking to grow that number by building a gym, we're looking to keep at that number, certainly not grow, and I think it will help this whole noise issue with our neighbors on Meadow Brook Lane.

Ms. Howard: What's the number of children? Rabbi Resnick: 570. Ms. Howard: I was just told 800 by the kids there and that was a lower number than I have been hearing from anybody who has knowledge of it. Rabbi Resnick: Plus, there is about 250 staff, which brings the number up to about 800. Ms. Howard: I came to the presentation at Town Hall before they had some new blood in the works, and I had preference my presentation with a short poem that I had written also two decades ago, and believe me, I don't easily refer to dates, I can smell the fires at night, the wooded acres of the camp site, the moist and damp of mulch and leaves, the humid felt of moss and trees, anyway, it was just the feeling of tranquility that we have in this area is so... and I would invite anyone to come and join me and experience it and I just want to emphasize that that it was such a tranquil area and not in a spoiled way, because we have shacks there, that I have been working for three years to make into a home that really functions as such, but very insubstantial little houses there, but the beauty and surroundings are just hard to find, and the people that live there also experience the noise in the regular world and that's why we bought so many years ago, to experience that and have a chance to get away from all of that, and we wish that the people on the other side who are coming up from New York and experience that rather than create a new place of noise and it's just beautiful to be one with nature, it's just a concern. My family bought back in 1957, so it has changed a lot and again notwithstanding that perceptions change from when you were a child from when you're grown up, and I realize that but even looking at that, it has changed a lot and we would love to just try to get it back a little bit to that peaceful, beautiful place; just from here, maybe it'll spread out like a ray of sunlight to everyone.

Chair VanMillon: If there are no further comments from the public, I'd like to entertain a motion to close the public hearing.

**MOTION:** Member Wittman motioned to close the public hearing; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye	Member Fusco – Aye
Member Wittman – Aye	Member Cimino – Aye

Chair VanMillon: At this point, I would like to go over the criteria for an area variance.

Code of the Town of Dover – Section 145-59 D. (2)

- a. Whether an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance? No.
- b. Whether the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance? No.
- c. Whether the requested area variance substantial? Yes.
- d. Whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No.
- e. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance? Yes.

Chair VanMillon: At this time, I really don't feel that I can push the Board to make a decision. I want to hold the decision open because I think it needs to be worded very carefully, and I also feel that the Planning Board or the Town Board needs to be aware of the concerns.

Member Cimino: I think we need to put a letter together.

Member Wittman: The public hearing is closed. I agree with you, though, as far as the wording of whatever decision we're going to have here, and there are other things that I would want to include, too, in there that would go back to the Planning Board based on things that we can't impose as a ZBA, but that I think the recommendations to the Planning Board for their consideration.

Attorney Jacobellis: Two things that I want to bring to the Board's attention before they deliberate or reach a decision. Obviously, the Board can impose any reasonable conditions on an area variance that the Board sees fit and that can be discussed with the applicant and it can be a discussion whether this is what the Board is leaning towards, we want condition "A, B, & C" in exchange for the variances requested. Second, one of the comments brought up at the public hearing that needs to be looked into is Town Code, I believe, adds the issue that if there's violations on the property. Does the Board have any type of letter from Mr. Hearn?

Member Wittman: I understand what you're saying, but I don't think we could have accepted the application if there were any violations.

Secretary O'Leary: There are no physical violations, the fire inspections were done, everything's done, its just that we get the noise complaints, but that's a different type of violation; there are no violations to my knowledge.

Ms. Howard: That is a part of the Town Code.

Member Wittman: I don't disagree with you there, but if the Code Enforcement Officer has not issued any violations, we can't consider it.

Attorney Jacobellis: If the variance is granted, the applicant then goes off to the Planning Board; Curt is going to have to go forward with the site plan review and once the amended site plan is submitted, that opens up the whole site plan; it's going to be an accurate depiction of what currently exists; that should be compared with what the Building Department has on record and any structures or anything like that that may not have proper Certificates need to be....

Member Cimino: So, before we grant the variance, it would be good to put some recommendations in a letter to the Planning Board at the same time as granting the variance if we decide to grant the variance.

Attorney Jacobellis: This Board has the ability to submit a letter to the Planning Board with recommendations, which aren't binding, but they should be taken under advisement, and also have the authority to issue conditions to the variance which are binding and run with the variance, as long as they're reasonable. I don't know what this Board is thinking about, if any, and it would be discussed with the applicant to make sure the applicant is on board with this.

Member Cimino: Is that something that can be done between the Chair and circulation during the month or is that something that we have to do tonight or at the next Board meeting?

Attorney Jacobellis: It can be done tonight or it can be done if the Board feels it needs more time. For example, Curt got up and said that Mr. Fila had concerns; the applicant seems willing to plant evergreens, that should be a condition of the variance; conditions that if the variance is granted, the applicant shall plant on the north side of the building fast-growing evergreens, etc.

Member Cimino: So, I would like some time to take the comments that were made tonight and last month and put them all together and then maybe give them to you and you can put everything else's together and work on it.

Member Wittman: Yes, what I'm concerned about is that we can put this together between now and the next meeting, have it reviewed and bring it back for public discussion with the applicant.

Attorney Jacobellis: Correct, the public comment period is closed, which is appropriate because it's been held for two meetings; now it would just be maybe once this Board comes up with criteria they feel comfortable with, either denying or granting the variance, that should be discussed with the applicant and the applicant's representative.

Member Cimino: I have good news for you about your wetlands. I did get (the coordinates) from them, thank you, but I also got the US Fish and Wildlife; they're brand new file came in for 2007 and those wetlands are gone; one of them is moved over, but nowhere near the proposed structure, so I don't have a problem GIS-wise.

Curt Johnson: And we're still going to comply with the flagged wetland; we're going to use those for our boundary.

Member Cimino: Did you go to DEC to authorize those?

Curt Johnson: I believe someone from C. T. Maile got authorization from DEC and I think those were agreed upon, but I'll double-check.

Member Cimino: OK, and I'm not going to leave this application for GIS; I do it for Planning, so we'll just continue on with it; that is good news, you don't have to worry about the Federal wetlands being on your property.

Chair VanMillon: Next month, we'll talk about our decision. She then read the next item on the Agenda as follows:

DUNKIN' DONUTS (Kevin Allardi) – Z 2008-03 – Applicant seeks an area variance to keep an existing sign that was not erected in accordance with ARB approval. This property is located at 3042 Route 22, Dover Plains, NY, on tax grid #7063-00-562258 and is in the HC district.

In attendance was the applicant, Kevin Allardi of Dunkin' Donuts.

Chair VanMillon: Mr. Allardi, this application is really incomplete, because you didn't have the provisions of the Zoning Law related to this application area variance; we don't know what you're asking for.

Mr. Allardi: I believe the proposed sign was 16 square feet. The Neshiewat's (the previous business owners) are the ones who erected this sign; they proposed the sign, reviewed the stuff, and then when they went to put up the sign, didn't follow the guidelines that were presented, they had asked for the Drive-Thru thing; it wasn't given right away, they were told that it wouldn't be challenged by the ARB; this came from the ARB, it said, "ARB members would not object if a variance were granted to admit the Drive-Thru portion," so I don't think they went through the proper channels after the fact, I think it was just told to them.

Member Wittman: Just for the record, I believe that's the letter that's dated 4/10/06 from ARB? I just wanted to make sure we're dealing with the right letter.

Mr. Allardi: Yes. It was denied, but that they wouldn't fight it.

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Member Wittman: They're just saying that they would not disagree or object to it, but the problem, of course, is that no request for a variance was ever submitted to this Board, so I think they skipped over that; whether it was an oversight or deliberate, I have no idea, but the point is that they skipped over that and went right to the sign.

Mr. Allardi: I've run into a lot of problems. I've bought four stores from these people. Sometimes I think they don't follow the rule of the road. I wasn't aware of this situation, I just found out when someone drove up and said, "Hey, you're sign's not the right size." I got the information, and clearly they knew the sign wasn't the right size; clearly they didn't go back and say, "Is it OK now to put the Drive-Thru portion in" they went ahead and did what they wanted to do, so I'm requesting an area variance so that I can keep my sign, if at all possible, I think what was proposed was 16 square feet, my measurements are about 19.49 feet.

Chair VanMillon: So, you're asking for a 3.49 square foot variance?

Mr. Allardi: Yes.

Member Wittman: To get back to your original question, the fact that the application is not complete, can that be completed now?

Attorney Jacobellis: Once you make the insertion of the information, have the applicant initial it.

Member Wittman: Are you sure the dimensions are correct?

Mr. Allardi: I went over with a tape measure. I called Rich Rennia's son, who had something to do with the denying of the sign. I said, "I'm taking 'this times this', it comes out to 'this'" and made it into feet.

Attorney Jacobellis: The reason I think Mr. Wittman is asking is because if it's bigger, then you will have to go through the whole process again.

Member Wittman & Chair VanMillon: It has to be exact.

Mr. Allardi: I have 76" by 37" and I measured a bunch of times and that's the number I came up with, which was 6.33 feet by 3.08 feet; I divided by 12 to get the inches into feet, and it came out to 19.49.

Member Wittman: What we'd like to do, if I can speak for the Board, is proceed with this application tonight. If you will complete it tonight, initial it as the Attorney has said, and we will carry forward because the next step, of course, is a public hearing. Everything has to go to a public hearing, but we don't want to keep saying, "another month, another month".

Member Cimino: I would feel more comfortable if you would give the current application back to Mr. Allardi and he fill it out and give it back.

Mr. Allardi: I was so confused with the application that I went and asked Mr. Rennia to help me fill it out because I wasn't sure exactly what I was asking for. I measured the dimensions; I didn't know I was supposed to put it in there.

Member Wittman: With the ZBA, the applicant has to be very, very specific as to what they're asking and that's what we consider, and only that.

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Member Cimino: Maybe we can let him fill it out and go on to Mr. Christiansen.

Mr. Allardi: I know I'm not allowed to ask for help, but is it only that one item that I'm missing, which is that 19.49?

Member Cimino: I'd like the Section of the Code on there. If you could review the chapter in our Code regarding our signs and make sure that you understand, we'll work on another application.

Chair VanMillon read the next item on the agenda as follows:

ROBERT CHRISTIANSEN – Z 2008-01 – Applicant seeks an area variance to rebuild an existing house 10'5" higher than the existing home on the existing foundation on a nonconforming lot. This property is located at 12 Christiansen Lane, Dover Plains, NY, on tax grid #7063-11-683626 in the HM district.

In attendance was the applicant, Robert Christiansen.

Member Cimino: Much better application this time.

Mr. Christiansen: Thank you, I've learned. I started off with a chain of events to bring everybody up to speed from the last time I was here and the last time, my application wasn't correct and at the ZBA meeting. I needed to amend the application and ask for specific variances, then it was recommended that that specific variance can be viewed by the Building Inspector to make sure that a Building Permit can be issued after the variances were granted. I did that in great detail, two pages worth. The variances were written up in great detail and sent to the Building Inspector.

After review, the Building Inspector sent me back to the Planning Board after he reviewed what it was I was asking for. At the Planning Board workshop meeting, after I put in all the paperwork to get to the Planning Board, the Planning Board had Joe Berger (engineering consultant for the Planning Board) call me that Friday morning and recommend that I talk with the Building Inspector again. After talking with the Building Inspector, George (Hearn) and I decided to meet at the existing home and George followed up with a letter sending me back to the Planning Board after George and I had met at the home.

We went through the whole home and then George followed up with a letter to the Planning Board. In his words, "It's my determination that this is a minor project and only requires site plan approval from the Planning Board to the extent that the building will be taller. All other alterations will actually reduce the non-conforming nature of the existing structure." I do have a copy of George's letter in here. So, on to the Planning Board I'm going.

In the process of getting together the work and talking with Ashley (Lei, consultant to the Planning Board), which is a very knowledgeable person, the Town Planner, to prepare for the Planning Board meeting, I received an e-mail from Ashley with their law firm included in here, stating that the Planning Board's attorney's interpretation of Section 145-25 A. is that I must obtain a variance for the height of the existing structure to the height of the proposed structure first, then go back to the Planning Board, so I amended the ZBA application and attached letters and documentation to ask for this variance.

Page two is a new application, I changed the area variance to say "Building Height" because under the Code if you read "area variance" it does say that building height, and down in provision, I put "see attached." On the next page, that's what I'm asking for. Section 145-25 A., A nonconforming structure or use may be rebuilt in the event of its total or partial destruction, to occupy the same or a lesser amount of footprint, but may not exceed the original... that's where the Town Attorney said he got the verbiage that he got that I need to come to the ZBA... but may not exceed the original height of the total or partially destroyed structure. Such rebuilding shall require site plan review by the Planning Board." "Such rebuilding shall require site plan review by the Planning Board" is where the Building Inspector sent me to the Planning Board.

This project is an existing, nonconforming use being totally rebuilt and will occupy a lesser footprint. If you go back to the application, it's actually 21 point-something percent less of the footprint. Need relief by means of a zoning variance from the existing home height of 17 feet 6 3/16<sup>th</sup> inches. I've done a cross section, which actually shows the existing structure drawn and I detailed the height because that's what we're talking about; I could have shown that it's only 2 x 6 floor joist, etc, it just doesn't meet Code from average grade. That 17.6 3/16<sup>th</sup> is from average grade because if you go around the house, you have different heights, so I used average. The new home height is 28' from average grade. If you turn the page to the existing home, you will see that the new house is actually 27' 5 1/4" but it is a new home and I took your advise, and I went 28' because with new construction, wood isn't always wood and I didn't want to go for the 27' 5 1/4", I went for the 28' because there's a good possibility it's going to grow, things settle. At that time, if the Building Inspector measures it, it may be taller than what it is a month or two down the road. A variance of 10' 5 13/16<sup>th</sup>" in height is needed.

The new home footprint is being reduced to eliminate the nonconforming use as much as possible forcing the new home to increase in height. The new home will now meet current building codes and will meet current NYS energy conservation code. The only difference is that the new building will be taller to comply with NYS Code for light and ventilation and head space on the second floor. Town height code for the HM district is 45'. This puts the new home height at 28', well within Code compliance per 145-11 B. in the Dimensional Table. I am within Town Code, but it is a nonconforming use which says that you can't go higher, so I have to ask for that variance so that I can go up higher even though I'm within Town Code.

I learned a lot since I've been gone and I followed that up with George's letter so you can see exactly what he wrote to the Planning Board. I followed that up with Ashley's e-mail that surprised me while I was on the road one night at 10:00 at night in a hotel, and then the two elevations and then what I did was took pictures. The first picture shows the existing home. The reason I took these pictures is so that you can actually see what's there and the vegetation around the structure. There are tall trees behind there; if you can see where the trees are, the embankment probably goes down about 40' but you can't see behind the house. The next picture is a side view showing a pole barn that's on my property next to it; it shows the telephone pole where the electric is going to come from; you can see that the electric is already cut off of it.

The next picture I took shows this is where you come to the property; those two mobile homes and the warehouse are mine on my property; you can see that the warehouse is a two-story warehouse and you can also see if you look down where you see the brown mobile home, behind that, my neighbor's got a two-story, so it goes along with the community as far as two-story structures.

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The next picture was just taken in front of the warehouse to give you an idea of the size of the house and what it would like; that it wouldn't go up over the top of the warehouse; same thing with the next picture, coming in from that direction. The last picture is to show you where you actually come up Railroad Avenue and that becomes Christiansen Lane and you can see where you're coming up the main road where this house is actually located. One thing that I didn't have at the time I handed these out that I would like to give out now, is I actually took the house and if you look at one picture of the house showing from the front, I replaced the new house in that picture, so you will see exactly what the new house is going to look like on that piece of property. You can see how high the trees are and how high it will be with the trees. If you go back to the first picture and compare that picture with this one, you can see that I had to take out the flag pole in order to do it, but I that's what the new house is going to look like on the piece of property there.

Member Wittman: The current building is going to be completely removed and this is going to be a totally new structure?

Mr. Christiansen: Correct.

Member Cimino: The same footprint, you're just going up?

Mr. Christiansen: Not the same footprint. If I could, by illustrating this picture, this front porch will be gone. If you look at the new house and you see that front porch, that front porch will be from the corner of this house in 5', the new front porch will be on the existing foundation so that I can get away from the property line as far as possible. The stairs come down, I had to put stairs on it, to come off the porch and that takes up the same amount of room as that walk-out angle bay that you see, so that's as far away from the property line that I can get by going on to the foundation. I took out 5' of the foundation and that's another reason why we had to go up because it's such a small footprint and we just didn't have room to get everything that we needed to live in it there.

Member Cimino: Very well thought out application.

Member Wittman: We need to set a public hearing.

Member Cimino: We need to set escrow first.

Mr. Christiansen: I already did that.

Member Cimino: That was for the Planning Board. We have a different attorney who reviews our applications. You will get a refund for all the unused money.

Member Wittman: Part of the money goes towards advertising the public hearing and notifying the surrounding neighbors and incidental stuff, plus any legal review that may be necessary.

**MOTION:** Member Wittman motioned to declare this application a Type II action under SEQRA, therefore, no further environmental action is needed; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye

Member Fusco – Aye

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Member Wittman – Aye                      Member Cimino – Aye

**MOTION:** Member Wittman motioned to set escrow at \$500; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
Member Wittman – Aye                      Member Cimino – Aye

Chair VanMillon: General municipal referral to Dutchess County needed? No.

**MOTION:** Member Wittman motioned to set the public hearing for August 20, 2008 at 7:00 pm; seconded by Member Cimino.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
Member Wittman – Aye                      Member Cimino – Aye

Mr. Christiansen submitted an escrow check for \$500 to Secretary O’Leary.

The ZBA members went back to the Dunkin’ Donuts application.

Chair VanMillon: Now it will read, “Pertaining to 145-39 (3) of the Zoning Code, he is requesting a 3.49 square foot variance and a 1.4’ height variance”.

Mr. Allardi: Whoever came out and measured it left me the thing (the Construction Inspection Report) that said that it was at 11.4, I only measured the inside of the sign, but I don’t know if part of that went to 11.4, I don’t know if that Section of the law is just stating the sign itself, I couldn’t figure out what that was measured to, he had a lot of things jotted down.

Secretary O’Leary: The maximum allowed is 10’, Tom wrote down 11’ 4”. You can never tell... does that go to the top of the sign, does it go to the top of the post, I don’t know. Tom measured the whole thing.

Member Cimino: I would think if Tom measured it, I would think he would have gone to the top; if someone else measured it, they may not know.

Member Wittman: We do need a height variance as well as a square footage variance.

Member Cimino: Maria, could you ask Tom where he measured from?

Mr. Allardi: Is there a way I could request September for the public hearing? I haven’t been on vacation since I bought these stores and that happens to be the one week we’re going away. Mr. Hearn said this had to be fixed by September 1 so that’s why I made sure I got in here for this meeting.

Member Cimino: As long as you’re in front of the ZBA, then that he should be OK.

Attorney Jacobellis: I’m sure that has long as he’s taking action to clear the violation then that should be all he’s looking for right now.

**MOTION:** Member Wittman motioned to declare this application a Type II action under SEQRA, therefore, no further environmental action is needed; seconded by Member Fusco.

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VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

**MOTION:** Member Wittman motioned to set escrow at \$500; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

**MOTION:** Member Wittman motioned to refer this application to Dutchess County Department of Planning and Development because it is on a State road; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

**MOTION:** Member Wittman motioned to set the public hearing for September 17, 2008; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

WIND ROSE - Site plan Special Permit and Subdivision - Motion to approve lead agency determination

**MOTION:** Member Cimino motioned to approve that the Planning Board take lead agency in the Wind Rose application; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

APPROVAL OF MINUTES - Approve June 18, 2008 minutes.

**MOTION:** Member Fusco motioned to approve the June 18, 2008 minutes as written; seconded by Member Wittman.

VOTE: Chair VanMillon – Aye                      Member Fusco – Aye  
          Member Wittman – Aye                     Member Cimino – Aye

Ms. Howard: I know the people are no longer here regarding the Camp Ramah situation, but years ago, this is regarding the wetland issue, which didn't come into my mind until meeting, years ago, we were called LEKA, Lake Ellis Association, the seven little extension homes that are there, and we were very concerned because we had a notification that there was a public hearing that they were going to dump 40,000 gallons per day of treated waste water into the lake. Somewhere in between that very involved group, which included my dad, Libby Katz, who was a biologist, and the things that they put in writing, that was voided at the time; since then I believe they got around it. I know the DEC now requires you to be an association before dealing with anything like that and I'm in the dark as to what we can possibly do to avoid any further, they have not been diligent, there are old rotting docks, metal docks that are rotting away and decomposing in the lake down at their far end of it, it's a small lake, it's not a motor

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boat lake, it's pure and natural, and apparently, they somehow got a license to do this stuff, we had it reformed the issue with my parents and their generation had reformed a group to address these things. When you mentioned the wetland issues, I'm very concerned about that overall because they don't seem to use the lake that much; as a camp as the older, the previous camps did for swimming and boating, which is fine, but maybe that's the reason they ignored certain other ecological systems and it concerns me a great deal as many of us have an awareness of these issues, so just something to keep in mind regarding this. They now seem very cordial and willing to work with things and what he said sounds reasonable, but then the attitude somehow changes. I had no idea they actually were doing the dumping, I found out from Chris, actually, that, oh, yeah, they've been doing it. Somewhere in between that time and this time it happened; there was nobody to address this; that's a question I have about forming an association of our homes. I wanted to address any of these issues that arise in the future 'cause we still use the lake.

Member Cimino: This Zoning Board, their authority can't supersede, correct me if I'm wrong, DEC's authority in their permitting processing. If DEC granted them approval many years ago or recently to do whatever they're doing in the lake, then there's really not much anybody here can do.

Ms. Howard: I don't know how it got around all the people there, just a lack of attention that the prior generation had to things like that.

Member Cimino: The questions I had with respect to the wetlands were, we monitor the wetlands layer for DEC and the US Fish and Wildlife, which is the federal layer, and we use their information and whenever an application comes in front of either the Planning Board, the Town Board or the Zoning Board, if the proposed structure gets very close to our data that there are wetlands on the property, we just make sure that they make sure that they put them on their site plans and that's as far as that goes.

Ms. Howard: Would that have been in a public hearing?

Member Cimino: That was last month; I noticed that there were no DEC wetlands on his property, but there were federal wetlands and they were in close proximity to where he was going to put the structure.

Ms. Howard: What is the difference between federal and.... DEC is a federal organization.

Member Cimino: No, it's a state agency, NYS DEC. Different government agencies hold titles to different wetlands and we have DEC and also privately owned wetlands, too, but our jurisdiction ends, all I do is bring it to their attention that there are wetlands on the property and they either have to provide a letter to me saying that it was on there erroneously or they have to stay away from it or respect the buffers that are required for that.

Ms. Howard: I totally understand that it's out of jurisdiction, I just don't know where to turn or if it's necessary reform a group so we can deal with these things in the future 'cause DEC has become more lenient about things.

Member Wittman: I'm not sure of the ownership of the lake; do you border the lake?

Ms. Howard: Me, personally, I'm the only house that's actually across the road and have an easement down and we have a dock on the lake.

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Member Wittman: The reason I ask that is because it depends on where your property line is.

Ms. Howard: There is always a certain amount of lake footage that is owned beyond the property, maybe 10 further feet of lake front property that is owned.

Member Wittman: That would probably be in your deed description.

Ms. Howard: I don't think there is any ownership; I think the state stocks the lake or maybe the county.

Member Wittman: That enters into this thing, who owns the lake, and this Board is not capable of getting involved in that. I appreciate your concern and I agree if you feel you need to establish another association to deal with this, it's not a bad idea, but it really has nothing to do with us.

**MOTION:** Member Wittman motioned to adjourn the meeting at 8:10 pm; seconded by Member Fusco.

VOTE: Chair VanMillon – Aye	Member Fusco – Aye
Member Wittman – Aye	Member Cimino – Aye

Meeting adjourned at 8:10 pm.

Respectfully submitted by:

Maria O'Leary  
Secretary to the Zoning Board of Appeals