

TOWN OF DOVER ZONING BOARD OF APPEALS REGULAR MEETING HELD ON WEDNESDAY, June 17, 2009, AT 7:00 PM AT THE DOVER TOWN HALL:

PRESENT: Chair Marilyn Van Millon
Member George Wittman
Member Anthony Fusco

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

Chair Van Millon called the meeting to order at 7:00 pm and began with the Pledge of Allegiance.

Chair Van Millon read the first item on the Agenda as follows:

DISCUSSION – **ODUNSI** – Z 2007-08 – Reaffirm the validity of Area Variance Z 2007-08 issued on 11/14/07 and motion to accept the Planning Board as Lead Agency for a new application.

In attendance was the engineer for this application, Ed Loedy, Architect, PC.

Mr. Loedy: I am an architect and I represent Mrs. Odunsi for the Planning Board and the Planning Board would like for the ZBA to reaffirm the variance that she received back in 2007.

Chair Van Millon: Are there any change to the plans that would affect the variance that we did issue?

Mr. Loedy: No, absolutely none. We’re on record with a letter, that you have a copy of; it basically says plans that were submitted at that time are the very same plans. What we did submit to the Planning Board were some changes to the site, specifically with the sewage disposal as required by the Health Department, and specifically, instead of having blacktop, they will use a gravel parking surface because DEC didn’t want them to run water off blacktop and we’ve also made some changes in the landscaping, but there is absolutely no change proposed for the variance which dealt with the size of the units.

Member Wittman: If he’s certifying that there’s no change, then I’m satisfied.

Member Fusco: I agree.

Attorney Jacobellis: Just from a legal standpoint, the variance was good for one year and often what happens is if the applicant needs a variance in order to get back before the Planning Board and the site plan is not approved and the variance expires, there is case law out there that says that the variance should still be considered valid because they’re being, not held up, but delayed by the Planning Board process. If the Board feels that there are no circumstances that change the neighborhood that would require a re-public hearing of the matter, then we will just be in the position to reaffirm the variance that was issued in 2007; we need a motion to reaffirm the variance.

MOTION: Member Wittman made a motion to reaffirm the validity of the Area Variance Z 2007-08 issued on 11/14/07; seconded by Member Fusco.

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VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Chair Van Millon: We also have for the Odunsi site plan a request that the above-named agency, which would be the Planning Board, serve as Lead Agency regarding the above action, which is the Odunsi Site Plan and Special Permit.

MOTION: Member Wittman made a motion to accept the Planning Board as Lead Agency for a new application; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Chair Van Millon read the next item on the Agenda as follows:

PUBLIC HEARING – **Ten Mile River LLC** – Z 2008-05 – The applicant seeks a reversal or modification of the decision of the CEO citing Sections 145-13; 145-14; 145-32, 145-35; 145-57 of the Town of Dover Zoning Law.

In attendance was the applicant, Attorney Jon H. Adams, Esq, of Corbally, Gartland and Rappleyea, LLP and David Weiner, representative for Ten Mile River LLC.

MOTION: Member Wittman made a motion to open the public hearing; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Attorney Adams: I'm assuming that no members of the public are present to talk. I've given a presentation to the Board, which I'm happy to give again, but I'm not sure the Board wants to hear me again. I do note again, as I have indicated before, the presence of only three people in the absence of five members, so I continue the argument that I expressed before in terms of deprivation of constitutional rights because I don't have a five person Board to address my comments to. I did provide surveys to the Board. I'm assuming the Board at some point in time conducted a field trip and reviewed the issue that I outlined in part in my earlier comments that is to say that the location of the fence that is an issue is located outside the stream corridor. If you recall, the stream corridor is an area measured from the centerline of the Ten Mile River 150' from that centerline and I think we gave you some information last time indicating our belief that most, if not the entire portion of the fence, was outside that footprint created by a perpendicular line starting from the centerline of the Ten Mile River. One of the violations cited by the Code Enforcement Officer was a violation of Section 145-14, Stream Corridor Overlay provisions and those provisions only address structures within that footprint from the outside, so that's one of the issues that we discussed with the survey and assuming the Board has taken further review.

Chair Van Millon: The Board has not gone to this site yet.

Attorney Adams: I have a representative of the owner here if you want to schedule a meeting, it's the Board's pleasure, I defer to the Board on that.

Chair Van Millon: George, did you want to go to the site?

Member Wittman: If the location of that is very important, then, yes. In that case, we will probably hold the public hearing open.

Attorney Adams: That action might help the Board. I intend to file a second appeal relevant to a request for an interpretation on another issue, which will bring me back, anyway, so I don't mind coming back because I'll be before you on that and maybe we can somehow consolidate everything even though they're separate issues from an interpretation standpoint. You may want to consider them as a consolidated package; I can have that in to you by the end of next week.

Member Wittman: I assume from your statement that it is part of this parcel.

Attorney Adams: Yes.

Chair Van Millon: I think we should keep the public hearing open. Maria, try to get us up to see the site some time between now and the next meeting.

Attorney Adams: During the business day, the sight is normally open. (He then introduced David Weiner, who is a representative of the owner) There is normally someone on the site working, the gate is open; we would like to know when you're going to be there.

Attorney Jacobellis: From a legal standpoint, I would ask either you or your client provide a letter to Zoning Board giving them permission.

Member Wittman: While there might be somebody there, is there going to be somebody there who is going to be able to show us exactly where these dimensions are?

Mr. Weiner: If we schedule it, I will be there.

Attorney Jacobellis: In the permission letter, you can put a contact phone number.

Chair Van Millon asked if there were any members of the public here about this application; there were none.

MOTION: Member Wittman made a motion to hold the public hearing open; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Chair Van Millon read the next item on the Agenda as follows:

PUBLIC HEARING - **PRENDERGAST** – Z 2009-03 – The applicant seeks to appeal Sections 145-30 B. and 145-11 B. of the Town of Dover Zoning Law. The requested 12.7' area variance would, if granted, allow the applicant to subdivide a piece of land without meeting the required 50' front yard setback for a corner lot in the SR District. This property is located at 48 Sprague Road on tax map #7059-04-810295 & 7059-00-820299.

In attendance were the applicants, Joseph Buschynski and Debra Kaufman of Bibbo Associates, LLP.

MOTION: Member Wittman made a motion to open the public hearing; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Attorney Jacobellis: From your submission tonight, your application is calling for country road standards?

Mr. Buschynski: Yes, that is the requirement; it is proposed as a private road, we would, however, pave it.

Attorney Jacobellis: From a legal issue, if the Board were inclined to move in that direction of a private road, then an HOA Homeowners' Association would have to be created to insure that the maintenance of the road is taken care of; that's an issue that will have to be discussed.

Member Wittman: It would be nice to state for the record what the difference would be and what you're weighing as it applies to zoning. A private road as opposed to something like this, what the definitions are, because I understand what you're asking, you want to pave it, I assume that under one of the definitions it requires not paving the road. Is that true?

Mr. Buschynski: I believe the country road standards gives you the option, the Town's option is to require one or the other.

Attorney Jacobellis: I know the Board is very familiar with the application, but to simplify it in simplest terms, if the Board is going to direct the applicant to go the driveway route, which means with the driveway there's easements recorded with the Dutchess County Clerk's office that gives access to the other two lots being created, then there's the road frontage issue; the applicant is going to need a variance; they would have to re-advertise and have another public hearing. Also, there's going to be an issue potentially if a rear lot is created, there will have to be an interpretation from the Board. If the Board is inclined to direct the applicant to go with the private road, then the Board is going to have to make a determination whether they want the road built to country standards, not country road standards because of potential environmental impacts, so there's a lot for the Board to consider on this application.

Mr. Buschynski: The reasonable alternative would be a common driveway serving two lots. It could be 4' narrower, a 16' drive as opposed to a 20' road, still paved, still the same amount of drainage.

Member Wittman: Who would own the property over which this road is going to run?

Mr. Buschynski: The Planning Board requested that they place the access strip to ownership of Lot 3. The frontage for Lot 2 being in accordance with the dimensional requirement of the SR zone on the access strip is 100' frontage.

Member Wittman: Would that obviate a homeowner's association?

Attorney Jacobellis: It would obviate because it would be a recorded easement; since there's no road, there would be no chance of it ever being abandoned, there's no taxes paid on it. If it is a road, then eventually it's coming into the Town's domain. The issue I feel it would raise is that if you want the driveway option, it would be road frontage, there would be a variance required for road frontage.

Mr. Buschynski: And the area for Lot 2 would be deficient, it would need twice the required area for that zone.

Attorney Jacobellis: You would require 2 acres and its 1.47, I believe. It would be a rear lot. The easement agreement that would have to be recorded to satisfy lenders, to satisfy title companies, etc, usually states that each lot owner is responsible for their proportionate share; it becomes the lot owners responsibility to maintain, to fill with gravel, to plow.

Member Wittman: So, we will go back to the original variance requested for the setback. (asking Mr. Buschynski) Would that be your preferred method?

Mr. Buschynski: We didn't give that consideration because we went so far down the road with the concept of private road and it came up at the last Planning Board meeting after a number of meetings with the Planning Board. You have the corner lot, you have the requirement for 50' frontage from the private road. We did not give consideration at that time to ask for a common drive and a variance from insufficient lot area for Lot 2, but it's an alternative which the owners would find acceptable if that's your preference.

Attorney Jacobellis: I think the way it's stated currently on their application, it's for a private road, so if they went the driveway route, I think it would have to be re-advertised and a public hearing conducted because it's a substantial change.

Member Wittman: I think it would be easier for me to entertain the setback from the driveway than it would be to entertain gross changes in lot size. (All other members agreed)

Attorney Jacobellis: With a driveway, there would be a variance because you'd be creating a rear lot; it's confusing. If you go the private road route, there is no rear lot, but you're creating a corner lot and you're creating an issue of a road has to go to certain standards under the new Town Law, the country road standards. I have not walked the property, I don't know if you're familiar with the property, I don't know if this three lot subdivision, I would not call it a major subdivision in my opinion, I don't know if it requires a country road to service three houses especially when one is existing; so you're really creating two new lots.

Mr. Buschynski: The driveway would only serve two lots.

Member Wittman: Yes, the other one already has a driveway on Sprague Road.

Attorney Jacobellis: If you go the driveway route, you would be creating a variance for frontage and you would be creating a variance for square footage of the lot because even though it's one acre zone and the lot is bigger than one acre, so the change in the character of the neighborhood is not existing, the Code reads that it has to be double the requirement.

Chair Van Millon: I'm almost inclined to do driveway.

Attorney Jacobellis: My office spoke with Victoria Polidoro, the attorney for the Planning Board, the Planning Board didn't have an opinion one way or another and wanted to leave it to the domain and the purview of the Zoning Board to make a decision. If you were to go with the driveway, then they would have to submit a new application.

Member Wittman: I would be trying to think about the minimum amount of variances necessary for this sort of thing and I think that as it was currently put in there, they're just looking for that setback. If they have no preference as to whether it's a driveway or a private road, the difference is obviously the road construction and the width of the road and so forth, I assume that there's difference in cost. I have not been down to this particular parcel to see what you are proposing, but I am familiar with the parcel and I know that it is steep in the back and I know that the best type of road, I would think, would be a paved road with some drainage rather than a non-paved road, which might be prone to erosion.

Mr. Buschynski: The steepness is in the very back. This proposed access, when you're visiting the site, there's an old driveway cut where that road is proposed and this is fairly gentle grade, I think it's 8%, 5-8%, it's a flat portion of the property.

Member Wittman: Yes, and then it starts to get steeper in the back. I think we should go with whatever is going to require the least amount of variances, that's what I would prefer. If the Planning Board has no preference, then it's really up to us to make that decision.

Member Fusco: I agree.

Attorney Jacobellis: I believe the private road would require the least amount of variances.

Member Wittman: Yes, I would tend to lead toward that so we don't have to get involved with anymore variances.

Attorney Jacobellis: Like I said, it's the Board's determination, the one thing that myself and Mr. Liguori discussed and want to bring to the Board's attention would be, again not seeing the property, the potential environmental impact where the driveway could be narrower and the country road standards have a certain requirement for width, etc, but that's only to throw out there.

Member Wittman: Would the other members like to hold the public hearing open so we can go to the property with the invitation of the owner or applicant being there to show us where things are, and make sure we're seeing exactly what we're supposed to be seeing and we do not trespass on anyone else's property. (all other members agreed) We'll do that with an appointment with somebody who is acceptable to the applicant.

Attorney Jacobellis: Joe (Mr. Buschinski), could you send a letter giving the Board permission and a point person for contact?

MOTION: Member Fusco made a motion to hold the public hearing open; seconded by Member Wittman.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Chair Van Millon read the next item on the Agenda as follows:

DISCUSSION – **DBL GAS STATION** (Singh) – Z 2009-04 – The applicant seeks to appeal Section 145-40 L. of the Zoning Law. The requested area variance would, if granted, allow the applicant to erect 1.2 foot candles in excess of the 0.5 foot candle maximum. This property is located at 1827 Route 22 on tax map #7160-00-001179 in the HM District.

In attendance was the applicant/representative, Jordan Valdina of Synergy Design.

Mr. Valdina: As you know there is a .5 foot candle at property boundary limit per Zoning Code. Hopefully, you will see on the plans, this is in the HM District, the property boundary in question is adjacent to NYS Route 22, the area that would receive the 1.2 foot candles, if you want to look at it, it's on Sheet C-5. The 1.2 level itself, in question, literally falls on the property side, it's beyond the property boundary, but it's on the property side of the landscaped island that belongs to NYS Route 22 and I mention that because the nature of the adjacent property, that is NYS Route 22 being a State highway, and also the landscaped island that's between NYS 22 property and this subject parcel makes this a higher lighting level, in my judgment completely acceptable in fitting with the character of the adjacent property, which is a State highway. The landscaped island itself creates the visual buffer, not the legal separation because the landscaped island is, on NYS Route 22 property, but visually, in character-wise it creates the buffer between the two uses, in my mind, and if some additional light, in fact, even fell on the landscaping itself, it would actually be on the side facing the building. That actually does make, oddly enough, a difference with light.

This light is coming from post upgrading lighting at the gas pump island and, in other words, the angle at that distance is literally falling on the pavement as opposed to shining across the road or glaring; it's full cut-off fixtures. 1.2 is not a very high level and the level that's on the NYS Route 22 side of the landscaped island is only .3, so if ever there was a time when I thought that this would be in keeping in spirit of the zoning code and the character of the adjacent property, which is a highway, it would be this scenario.

Finally, the nature of the use of the gas station, there's quite a bit of lush greenery to either side, which is pretty and rural. It also creates a potentially unsafe, but less well lit entrance and exit to a gas station than one would potentially expect, especially in bad weather. In other words, again, a 1.2 foot candle over the property boundary, in this case, is nothing but good. In my opinion, it certainly would not be a distraction, certainly would not be a negative, wouldn't take away from the rural character and yet I do believe it's a natural consequence of good safe lighting of this site, that basically is surrounded by trees and yet it's a gas station, and rightfully so.

Member Wittman: You said something about "cut-off light," does that mean that it is in some way either recessed or shielded so that it shines basically downward?

Mr. Valdina: Yes, the definition of full cut-off and all the standards, all the Planning Boards, everybody requires them now, they are the norm, so most fixtures are, but it's literally that if you were to look at the light going out from a fixture, all it means actually is that it doesn't go above 90 degrees. The alternative, and you'll see this in older lighting which was very normal, it's like a wall-pack lighting like on the side of a high school or something, which is fine for safety, it can actually work in favor of discouraging certain types of behavior, so there's other uses for lighting that now everybody's discouraging as bright lights. But the point is that those literally shine outwards, this has the shielding, the lamp fixture itself is above that shielding, so in other words, you'll never be able, if you were standing horizontally adjacent to it, if you were 14' high and you

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look straight over, you would never see glare. However, someone on the ground within the right angle, you could look up and you can see it.

Member Wittman: It is shielded somewhat so that if you were out on the highway, you could not see that light directly, you could see the effect of the light coming downward.

Mr. Valdina: That's absolutely correct.

Member Wittman: And the lights that you're proposing are only on the island?

Mr. Valdina: Yes, and these are two poles to either side of the gas pumps that have two light fixtures on each pole in this orientation and they are parallel to Route 22 and parallel to the gas pumps. They do shed most of their light parallel to the road as opposed to spilling on it.

Member Wittman: Are the lights automatic? Do they come on when the ambient light level falls below a certain thing and on a timer?

Mr. Valdina: I actually have not specified anything in that regard. A control or light sensitive would be very easy to implement and we'll be glad to put it as a condition. All other things being equal is they would be whatever is standard for the way a gas station would operate. Beyond expecting certain behavior of an owner, which the expectation does not make them do it or not, I would think some actual faith in the fact that the people supplying the equipment all adhere to standard practice and so how even these lights work, it would be Jim Daloway of American Petroleum. I would actually request that of him, but the short answer is I don't know what would turn them on.

Member Wittman: This is for my own information. Up until currently, the gas station is not open 24 hours per day. I would suggest, I don't know how it would affect the opinion of other people here, but I would suggest from an energy standpoint and also from a light intrusion, when nothing is open, that it need to be at a reduced level or out. I think that's actually to your or the owner's benefit in a sense that he's going to be saving a lot of electric.

Mr. Valdina: I agree and my thought on that would be, but I would need to confirm this or specify it. My understanding was when the operation is closed for the evening, that things are either off or reduced.

Attorney Jacobellis: I was going to suggest to the Board that at the public hearing down the road that the applicant state the hours of operation and if the Board is inclined to grant this variance, limit the variance. The Board has every right to put the hours of operation for these lights in the variance that if the station closes at 11:00, the lights need to be off to keep the rural character, even though it's on NYS Route 22.

Member Wittman: I would be willing to consider something from a security standpoint, you still need some light even if the station is closed, but at a reduced level. I think that would satisfy me as far as intruding on anybody and also a way to avoid getting complaints from the public.

Member Fusco: The 1.2 foot candles, is that for a normal gas station or is brighter?

Mr. Valdina: It's way lower than anything you would think directly associated with a gas station. Of course, if you go far enough away, somewhere, you're going to get zero.

Member Fusco: I was asking if this is the normal lighting that any gas station usually has.

Mr. Valdina: This is very normal, if anything, it's significantly lower. You can see the hot spot with the lighting as configured here in the property, it's the hottest spot anywhere 23, which is bright, I would use the term bright, but it's not very bright. Mobile On The Run usually under those canopy lighting, as a form of reference, they're often in the range of 40-45 foot candles, which is extremely bright. It doesn't bother anybody, but it feels like daylight. On the scheme of things, this is somewhat lower, but it's not the lowest that you might see for other uses. This is, I believe, a nice balance for a gas station use.

Member Wittman: Do we have a recommendation from the ARB?

Mr. Valdina: The ARB didn't have a quorum when we were here last week, so they're scheduled now for Monday. The Planning Board, however, Joe Berger, engineer, addressed this and he mentioned Greenway standards, actually in a correspondence before I went to present these plans. They have actually already seen these photo metrics and I had also have given the Planning Board an alternate photo metric plan back the last time we submitted, which was about six months ago. The alternate plan showed foot candles that achieved the .5 at the property boundary, but that in my judgment as well as the distributor's judgment as well as the lighting provider judgment, we're in keeping with any gas station and they didn't believe it's safe. I presented both to the Planning Board, however, and I said that I like your feedback, here's an example of two options. I believe, the distributor and the lighting provider all believe these are the lowest acceptable, but here's what it would look like very much lower and we don't believe it's safe. They did not decide based on that, there were many others, so on re-submittal, I only included this one, but they had the other by way of reference, they printed it out for the meeting so they can look at the two.

Joe (Berger) said the Greenway standards is that you have an average of five foot candles on site, not maximum, average, so you can have ten over here and three over here and still achieve your average. I said I'm trying to balance this with gas station use and he himself said you'll often see 25, 35, 45 foot candles, but that's not modern, current standard, this is just what's selling. He said see if you can bring it down closer to the Greenway standards. He wasn't specifically referring to the zoning code issue on the property boundary so much as the lighting on site, so it's my thought that that issue might be a continued issued, but that the possibility that the foot candles can still be 1.2 at the property boundary and the argument that it's reasonable is still relevant to address now at the Zoning Board even if these are adjusted slightly. Joe said that would be fine if it's average. The more I think about it, the more I want to make a case for this exact configuration. I have not been before the ARB.

Member Wittman: The only reason I suggest that is because they're really supposed to be the arbiters and experts on appearance things like this and I would really like to hear what their suggestions are.

Chair Van Millon: I definitely would like to hear what the ARB has to say on all this before we even have a public hearing.

Attorney Jacobellis: From a procedural standpoint, the Board can still certainly schedule the public hearing to not delay the applicant, and in the meantime I know an ARB member was inward to the meeting from a business trip that got delayed and they didn't have a quorum. I know they're scheduled to meet the first Monday in July.

Mr. Valdina: We're meeting with the ARB this coming Monday.

Attorney Jacobelli: So, a public hearing for the end of July should give enough time for the ARB to give a recommendation.

Mr. Valdina: The ARB has seen these drawings before, not exactly as shown here, and at the time, in any of the presentations of light that I mentioned which were these and a much reduced lighting level, that they had no comment as regards to lighting so far. They hadn't weighed in at all, nor do I recall specifically listening to their feedback, but I've already gotten a great deal of feedback from the Planning Board regarding lighting. The ARB has approved the plans with a couple of minor exceptions so just to give a little background, they have seen it and are very familiar. The only things that have changed on the plans since they last saw it is the sign, the existing Johnson's Garage sign, which is internally illuminated. We're now including that sign as well, we're saying let us keep that sign, but lower it and make it not internally illuminated so it meets the current sign standards and it all falls within the parameters and under the maximum area allowed of that signage, and it will no longer say Johnson's Garage, it will say DBL. We've added some façade just a aesthetic gesture, a façade roof, a horizontal strip through middle, trying to break up the façade of that building a little, and we were taking in feedback and again, interestingly, mostly from the Planning Board, they saw another set of designs with this project "once upon a time" and said it looked really great and can you do anything, so they were driving that. The ARB, everything else besides those two lights, in keeping that one sign and the façade roof had signed off on the wetland debris protection fence that the DEC requires and the aesthetic appearance of it, the gas pumps, the appearance of the lighting itself, they consider it a structure, and the landscaping. That's just a background of what the ARB has seen and said.

MOTION: Member Wittman made a motion to declare this application a Type II Action under SEQRA, therefore, no further environmental review is required; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

MOTION: Member Fusco made a motion to set the escrow fee for \$250; seconded by Member Wittman.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

MOTION: Member Wittman made a motion to refer this application to Dutchess County Planning and the State DOT since it is on a State highway; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

MOTION: Member Fusco made a motion to set the public hearing for July 15, 2009; seconded by Member Wittman.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Attorney Jacobellis: I'll make sure that if at all possible, the ARB will get something to the Zoning Board.

Mr. Valdina: Just so you know, in case it's a follow on issue in any sort, because they may very well additionally focus on the lighting in the interior. My goal is to try to decouple or modularize the issues of the lighting on site and allowing the 1.2 foot candles to the extension on these plans and I'm going to say that to the ARB as well, because the design and feedback is a process around it, so maybe I'll find something right in the middle or maybe convince somebody of one of the things I showed. What I'm trying to do, too, of course is to get approval for the applicant and satisfy everyone in the community, it is to try to isolate some of the pieces and get the parameters and so from a zoning variance perspective, unless there's some unexpected feedback, and I'm going to press the ARB with this as well, I'd still like to say yes, you can have this maximum lighting level beyond the property boundary as shown on this plan on this date even though we understand this might be subject to further review and modification, it might be lower, but not exceed the variance.

Chair Van Millon: The next discussion is to discuss ZBA application procedures; I think I'm going to put that on hold. All members agreed.

APPROVAL OF MINUTES - Approve April 15, 2009 minutes.

MOTION: Member Wittman motioned to approve the April 15, 2009 minutes; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

MOTION: Member Wittman motioned to adjourn the meeting at 7:54 pm; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye Member Fusco – Aye
 Member Wittman – Aye

Meeting adjourned at 7:54 pm.

Respectfully submitted by:

Maria O'Leary
Secretary to the Zoning Board of Appeals