



changes to the design and we were asked to bring an updated drawing to file. This is the updated drawing we have filed (he pointed to a drawing dated Aug. 10, 2011). There were 4 changes made and I read in the Aug. 4<sup>th</sup> Planning Board minutes that there were a number of questions about those changes and it was not clear so I thought I'd color code this and explain the difference between the original drawing as approved and what we ended up with in the construction process."

Mr. Wiedor presented a chart that was dated September 8, 2011. He continued, "The first change, in the original drawing, there was a set of 4ft. wide stairs in this corner (pointing to the south side of property) we asked in the approval process to make them 8 ft. wide and centrally located on the property."

Chairman Kenan asked, "You are talking about what took place in the August meeting?"

Mr. Wiedor said, "At the April meeting, sir. We asked for 8 ft. wide stairs. In the August update we went back to 4ft wide stairs but we located them opposite side of the property where they can be shared with the lake rights owners, there are 2 families that have lake rights to this corner (pointing to the northern side) So we moved it from a central wide stair to a stair 4ft. the same width as the original design (pre-existing) and went back to 4ft wide but located on the north side so both the lake right owners and we can use the same set of stairs."

"The second change, in the original design there was a 6ft. by 6ft. planter that was not shown on the drawing in the middle of the wood dock area. We went back and put that planter box back in because it was an impermeable area. Also this long narrow piece here, 2ft. wide, the flagstone in this area did not go all the way to the property edge as the dock did down here, so we restored that back to the original plan here."

"The third change we made is in orange. This is the dock that protruded out into the lake. This originally the overall length, from the retaining to the edge of the dock was 36ft. In the April request we asked to reduce it to 33ft. and in the final design we reduced it another 3ft. and made it 30ft. So it is shorted, we brought it back in to 30ft. long. The reason 30ft. was chosen is because the lake right deeds gives the 2 owners above my house a 10ft. by 30ft. area to use. So that is defined by this parcel right here (pointing to the northerly corner on drawing). We reduced it to the minimum to be consistent with what is in the deed."

"The fourth area is this green sliver on the south end of the dock. Originally when we permitted for it we asked that it be on the property line. When we did the actual as-built, the corrugated sheet piling that is driven in around the perimeter allowed us to have a 7 inch less length because there is 18 inch centers on these. So it actually comes in 7 inches less than what was originally asked for. It was going to be on the property line, but the way it lays out it turned out to be 7 inches less. So those are the 4 changes."

Chairman Kenan asked, "Would you repeat that for me, I don't think I followed that."

Mr. Wiedor explained, "The sheet piling that was pushed in around the original dock, these are in 18 inch increments so when we put the thing together it ended up being 7 inches less than the property line so we adjusted the drawing to show that. You can see that in the picture. (Picture presented of property as it exist on 9/8/2011).

Mr. Kenan asked for further clarification on the relationship to the property line. Bob Eggleston stated, "Originally it was going to be on the property line, but because of the 18 inch increment and where things landed it is further away from the property line."

Mr. Wiedor then presented a poster dated 9/8/2011 with 4 photos . He said, "Just a couple quick photos to show you. This is a photo of the project as it stood on Sunday. (pointing to the upper left hand photo) Here are the set of stairs." The 3 other photos were of the property before the project began. He pointed out the changes that he previously described in both the pre existing photos and the current photo. He stated, "On the south property line, there is a 7 inch pull back. It is shorter on the south property line. The 2<sup>nd</sup> change is the staircase. Which was requested and approved at 8ft. wide, we returned it back to the original (pre-existing) 4 ft. width, but placed it on the north side of the property instead of the south. The 3<sup>rd</sup> change is the extension going into the lake to the west was out into the lake 33 ft. we reduced it 3 more ft. to protrude into the lake 30ft. The 4<sup>th</sup> area is in the north property line, there was a 6ft 10inch by 6 ft. planter box and a 2 ft. pea gravel open space, we returned those back into the design, which was not on the drawings you approved. So we added more open space, reduced the amount into the lake, changed the stairs to smaller, and it's 7 inches smaller on the south property line."

Mr. Eggleston said, "Just to correct one statement, when he said it projected 33ft. into the lake, no, it projected from the retaining wall out 33ft. we brought it back to 30 ft. Not into the lake, but from the retaining wall."

Mr. Galbato said, "That's the permanent dock?"

Mr. Eggleston replied, "Yes"

Chairman Kenan said, "So the face of the dock under that is that in the same position as it was before?"

Mr. Eggleston replied, "The DEC allows us to come a foot into the lake from where the existing wall is. So you have ability to build a new wall in front of the old wall. Once we took off the permanent dock, we saw the exact location where the retaining wall was, so we pulled it back. We actually put a cantilever of 1 ft. 4 1/2 inches. Originally this came out 4-5 ft beyond that wall."

Mr. Wiedor clarified, "The cantilever was 10 ft. in length. It had 2 pipe piling legs out at the furthest west edge and was attached to the dock on this side."

Mr. Kenan said, "It was 10ft. Now it is less, but the face of what it is cantilevering from is further out?"

Mr Wiedor showed a picture and explained.

Mr. Eggleston stated, "The original dock was not cantilevered. It had steel posts into the dock holding it up."

Mr. Kenan said, "The far extent of this, what you call cantilever dock, is now closer to shore than it was before?"

Mr. Wiedor and Mr. Eggleston said, "It's 6 ft. less."

Mr. Wiedor stated, "Yes. We started at 36ft., designed at 33ft, and built to 30ft. So that is the clarity to the updated drawing. Then the question that brought us here was I asked for an interpretation on how to put a seasonal dock into the lake in the future. The seasonal dock, as you can see in the 1984 photo, was always placed at the end of the extension into the lake. What we came to ask for an interpretation is rather than have that parallel here (pointing to drawing 3 of 3 dated August 4, 2011) is it acceptable to use this configuration extending the property lines into the lake. This is a 30 ft. wide property. I believe it talks about extending the property lines into the lake and taking perpendicular lines from the natural lake line and extending those out. Whichever gives you the lesser of the setbacks is what you should use. We can't do that. There isn't enough room to fit a boat and a dock in that triangle that remains by that. What I ask is if we can use this configuration. We put the boat to the north side. We shared this configuration with the neighbor to the north and he preferred the boat to be here (as shown in drawing) to create a physical barrier when someone is sitting out here (dock) from his boat, which is placed just north of that. That is the configuration we came up with. My question is; does this require a side yard setback? Does this require a variance? If it's a variance, do I have to get it ever year? "

Mr. Kenan said, while pointing to lake shore area on the drawing, "This piece of the property is 30 ft. wide?"

Mr. Wiedor replied, "All the way. 600ft. from our house all the way to the lake is 30ft. wide."

Mr. Eggleston stated, "We need a variance and we know we need a variance because temporary docks are listed, and can only extend 40 ft. beyond edge of water into the lake. We have to be 55ft."

Mr. Wiedor stated, "In July the water depth here at the end of the dock was 62 inches. I have a 20 ft. boat, you really need to have about 5ft. of water. The other docks in the area, the Spaulding family owns the home to the south of us, and there is a lake rights family, 6 families that own a dock south of that and the Mezzalinguas, all of us take about 60 ft. of dock to get to the right level of water, just because of the shallow nature of our shoreline. It's not unique to our dock configuration. All the boats are about at the same point."

Mr. Eggleston stated, "We know we need a variance because we are going to be more than 40 ft. The question on the interpretation is how you measure the side yard and what the side yard setback requirement is. I spelled this out in the narrative, 3<sup>rd</sup> page, Section 225-20E(3)b it says, "All offshore structures shall be constructed in a manner consistent with the governing side yard setback requirements. "

Mr. Kenan said, "All offshore structures, whether permanent or temporary would abide by that."

Mr. Eggleston continued, "In the list, temporary docks got listed. The town doesn't govern temporary docks, the Village does apparently. I guess it's an interesting question because I have not seen too many applications for temporary docks. Duane asked, so we are here. On the question of what is the right side yard setback; in the residential A-1 zoning district, primary structures require 25 ft. side yard setbacks. 225-14(C)5a "accessory uses enclosed in a building and accessory buildings in a residential A or B district a 1 or 2 car garage or similar accessory buildings accessory to a building on the same lot may be erected not nearer than 3 ft. to a side yard." So you could build a 2 car garage 3 ft. off the side yard. So is 3 ft. what you use. Except they specifically say uses enclosed in buildings, a temporary dock is not a building. I suppose a boathouse could be 3 ft. Then it goes on, 225-14(C)5d in a residential A district, accessory uses not enclosed in a building including swimming pools and tennis courts may not be located in the front yard and such uses shall be a distance not less than 25ft. from any side or rear lot line in such districts. That is accessory uses not enclosed in a building. What I'm saying is a 2 car garage can be 3 ft. off the property line but when they talk about accessory uses not enclosed in a buildings and they suggest swimming pools and tennis courts, I'm not sure this fits in the same category. Does that mean playground equipment needs to be 25 ft. off the side lot line? Then if we get more technical in reading this, maybe there is no side yard requirement for a structure because the definition of a side yard is a yard situated between the building and the side lot line and extending from the front yard to the rear yard. So, technically structures don't have side yards, only buildings have side yard setbacks. We are perplexed. We met with Elaine and Ric and they left our meeting scratching their heads also."

Mr. Galbato, stated, "No I didn't. Bob, I popped into the meeting and I heard you were going to submit revised plans and Elaine was going to review them and issue her determination. I didn't leave perplexed and neither did she. That was the second you have said that and I wanted to correct the record."

Mr. Eggleston said, "We have not received an answer as to what is a side yard setback. So they are not perplexed, but I don't have an answer. Anyway, we have asked for an interpretation to answer the question. The second part of that is; what is the direction of the line? It says, (225-20E (3)(b)) the location of the side lot line within the lake shall be determined by extending the property line into the lake at the same axis as it runs onshore, or at a right angle to the lake line, whichever results in the greater setback." Mr. Eggleston then showed these 2 interpretations on the drawing dated Aug. 4, 2011.

Chairman Kenan asked, "Explain how the angle of the line changes the amount of the setback? The code determines, if you can figure out what the code says, the setback being 3ft, 25ft, whatever. How does the angle of the line change that?"

Mr. Eggleston said, "I remain perplexed on this one. It says whichever results in a greater set back. So if I have a structure this one (the triangular shape) creates a larger setback."

Chairman Kenan said, "I would suggest that if you had a 100ft of frontage, measured between the lot lines, that language perhaps make sense. Because whether you do this or this (sketching the 2 options) that would seem to be what they mean by greater setback (referring to the small triangle) because you are further in. I suspect that is what the words means. If you are bound by a 25ft. setback you couldn't

build anything because you have a 30ft. lot. Two 25s making 50 there is no room for anything left. If you are bound by the language of parallel or perpendicular I'm still not sure you have room for anything that technically meets that language without a variance because those lines converge in a little tiny triangle that is barely off the shore, because of the width of the lot. Does that sound reasonable?"

Mr. Eggleston replied, "Again, what we are laying out here is we are asking the ZBA for an interpretation, you give recommendations to the ZBA as to how it is and/or do we need a variance as a result. Right now we don't know if it's 25, 3 or 0, because structures don't have side yard setbacks. What we are proposing is that this be placed at the corner of this 10ft projecting area so that way the lake access people plus Duane can come across and use it. It puts it 6ft. away from the north property line extended. It is 18 ft. off the north line extended, its four ft. off the south line extended. I believe the neighbor to the north had no objection to that."

Mr. Wiedor replied, "I can only speak to a conversation we had. He requested we put the boat to the north side to present more of a fencing of when people are sitting out here from a distance between his boat and his dock."

Mr. Ramsgard said, "I can speak for the neighbor to the north."

Chairman Kenan said, "Hold if you will for a little bit. OK so, council, is this an issue of interpretation and therefore it should go to the Zoning Board and we should make a recommendation of what we think the appropriate interpretation is?"

Mr. Galbato said, "You could do that. Our CEO has determined that a variance is need for the temporary dock. In regard to the changes Mr. Wiedor has presented in his earlier presentation this Board needs to consider a modified site plan approval.

Chairman Kenan stated, "She gets to determine, and we respond to what she determined. So that's her determination, that a variance is required. "

Mr. Galbato said, "And obviously the applicant would have the right to an interpretation by the ZBA of the variance determination she made on the issue of the temporary dock."

Mr. Eggleston replied, "In all due respect, I have not seen Elaine's determination."

Ms. DuBois replied, "I thought you understood that."

Mr. Eggleston said, "I haven't seen it. I know you said you wrote a memo, but I haven't seen it."

Ms. DuBois stated, "I apologize. I thought this was resolved before Jorge even left. Did we fully understand and did it make sense? Perhaps not. But the way code reads a temporary dock has to meet side yard setbacks."

Mr. Eggleston said, "We have no question that we need a variance for the 40ft. extension into the lake, we understand that. We don't what the variance is that we are asking for and where its measured from. I haven't seen your determination."

Chairman Kenan asked, "Can you share with us what the basis for that determination was? How were you interpreting that so that a variance was required?"

Ms. DuBois said, "Let me find the exact section, but it specifically list temporary docks as needing a side yard setback."

Mr. Galbato said, "On the last page of my memo, Mr. Chairman, it sites 225-20. The important provisions are E(3)b, and Bob has talked about that "

Chairman Kenan then read the provisions of that section. He then said, "And this language is the extended straight or right angle to the lake line. Do I keep going or is that the basis? So, (speaking to CEO DuBois) your interpretation is anything more than 40 ft. requires a variance."

Ms. DuBois said, "More than that, under E(3)b, they are required to have side yard setbacks."

Chairman Kenan asked, "How are you interpreting the side yard setback, 25 feet?"

Ms. DuBois said, "That's the only setback I know."

Chairman Kenan said, "So that's your interpretation, 25 ft. setback, the two side yard setbacks would overlap each other. In addition to that, if that were varied and appropriate the dock would be 10 ft. too long."

Mr. Eggleston replied, "10 plus 5. We are 50ft., but from the waters' edge we are 55ft."

Chairman Kenan said, "Oh, I see. So you're 55ft and 40ft. would be the limit. Ok, so that would be the provisions in your interpretation that would need to be varied."

CEO DuBois said, "Correct."

Mr. Eggleston said, "And it's 25ft because accessory uses not enclosed in a building are at 25ft?"

CEO DuBois said, "Right."

Mr. Eggleston then asked, "Our other interpretation question was which line do you take? How do you interpret the wording of the location of the lot line in the lake?"

Mr. Kenan said, "If she has already determined that the 25ft. number is applicable then the 2<sup>nd</sup> piece doesn't matter."

Mr. Eggleston replied, "Well, no, where do you measure it from. Right now I've measured everything here because I don't know what else to measure from. "

Mr. Kenan said, "The way I interpret the words, and it's up to the CEO and perhaps the ZBA but we can recommend, it's telling you to take the more conservative of the 2 choices." Sketching the 2 options he said, "So if one line looks like this, and one line looks like this you are left with whatever is between

those lines. It could be applied one way on one side of the property and a different way on the other. That's the way I would read it."

Mr. Eggleston said, "I guess it depends on whether you start with the object and what's the setback or what creates the lesser area to work with, anyway I think it's a challenging language."

Mr. Galbato said, "My understanding is that the CEO has determined that the right side yard would be 6ft. from the north side line after construction, which is far less than the 25 ft. setback, and the left side yard is 4ft. after construction."

Chairman Kenan said, "On what is proposed?" Speaking to CEO DuBois he said, "It's your interpretation so tell me if I'm interpreting your interpretation correctly. This line on the north, perpendicular to the lake line is the more conservative and the extension of the property line on the south is the more conservative. So the variance would have to be measured from the line perpendicular to the shore on the north and from the property line extended on the south. You wind up with a triangular space within which you could build a temporary dock without a variance as long as don't go more than 40ft. from the lake line. Do I interpret your interpretation correctly?"

CEO DuBois said, "Yes."

Chairman Kenan said, "On the subject of site plan approval; why are we modifying site plan approval?"

Mr. Eggleston said, "We are back here because there were some questions raised about the original approval. We have recalculated the areas where the lake line was. When I originally figured the lake line we were going in a straight line, but now we are going in a natural line so we have recalculated the areas based on the natural lake line for what area is within the lake line set back. At this point we have made some of the structures smaller, as Duane outlined. We had 4 different reductions we did."

Chairman Kenan said, "So you are asking us to review and approve of this latest modification."

Mr. Eggleston continued, "We also supplied you with an email from Elizabeth Tracey from the DEC saying she had no problems with modifications, it was acceptable to her." Elizabeth Tracey email was dated August 26<sup>th</sup>, 2011. It was forwarded to the CEO on September 6<sup>th</sup>, 2011.

Chairman Kenan said, "If I can talk about the dock again for a moment. We understand the reason for the CEO rejection of the dock and now it is up to this Board to make a recommendation to the ZBA on whether they want to recommend approval of this configuration on what you have proposed there.

Mr. Eggleston said, "I think it's best to refer to it as the August 4<sup>th</sup>, 2011 plans" (page 3 of 3)

Chairman Kenan said, "This is not a public hearing, however I know you really want to talk about this application, and Andy wanted to talk about the neighbors feelings. So if we don't get into a protracted discussion would you like to comment?"

Andy Ramsgard said, "I would. First comment would be, if these drawings (referring to page 2 of 3 dated Aug 10, 2011 from Bob Eggleston) are accurate then there is a physical encroachment on the

neighbor, a real property line issue. This drawing says it goes property line to property line. There is 30 feet. 10ft, 10 plus 18ft. 7 plus 7 inches equals 30 ft. So if that drawing is correct then it says 30 ft. They are measuring from here to the wall. This is the north property line." Mr. Ramsgard showed pictures to show the area in question. He also referred to drawings by Bob Eggleston dated Aug. 10,2011 page 2 of 3.

Ms. Keady asked, "So you are calling this brick and the paver and the extension to that the bump into the property line?"

Mr. Ramsgard said, "So you have to say that is out over the property line."

Mr. Wiedor said, "Except this is the neighbor's property stake. You can see the property stake is off the wall."

Mr. Ramsgard said, "So then why is this drawing drawn wrong?"

Mr. Eggleston said, "So the answer is the drawing is incorrect and this wall actually as built got pulled back from the property line."

Mr. Ramsgard said, "That's the whole problem is none of the drawings have ever been correct. There are, with this project, if the information had been represented correctly in the first place, there would have been 2 variances off the get go because the first 2 variances would have been for the brick patio that was added in 2010 without a permit."

Mr. Wiedor said, "The patio was not added in 2010. It was done in 2009"

Mr. Ramsgard said, "So then it was still added without a permit or without a variance. Because this photograph of the actual property conditions show the construction of the brick patio."

Mr. Ramsgard showed a photo dated April 2010 . He said, "It shows the grass has not grown in yet. You can see the edge of the brick patio. That was not disclosed as part of the original application. There are an additional 17 variances required by the work that was proposed in March and as it was built and redefined in August of 11. You can see the tree, you can see the planter, the permanent dock ended as a bulkhead with adjacent neighbors, now currently it is out passed that. So we not only have side yard setback variance issues for the permanent dock we also have riparian right aspect of permanent construction, which is number 19 associated with permanent structures that were built, that were not approved by this Board. There is a diagram of what actually existed. There was what was called a walkway space that was slates. There was a staircase. There was a bump in the permanent dock and a cantilever to that and then there was a temporary dock. What was told to the DEC and everybody was this was permanent. The riparian lakes issue on a 50ft wide lot mean you have to come in off an angle and then you take the setback. So you come in off the angle and then measure 25ft. And then you come off the other side, which is basically no space. As you go through, and look at what was proposed in the drawings in March of this year, on close inspection, not included on this drawing, the construction section clearly shows that piling was proposed to be put on the property line and that there was a cantilever over the property line. So as it was proposed in March, 2 variances would have been required

for the patio that was put in. There would have been a side yard variance on each side for the stair expansion, there was additional coverage for the stair expansion, there was additional coverage for the planter that was filled in. The grade was changed, the tree was removed. There was a perimeter addition all the way around that would have made the structure bigger, the structure was increased by the size of the staircase. It was also increased because the angle was straightened out at the lake and that will show up in the photographs later. So here is the patio that was put in. The actual extension we have been talking about was that they say was 7 inches is really 12 inches out to the edge of the concrete is. That is what is called out on the drawings as 7 inches here and 8 inches here, the top wall of the crib wall around the perimeter of the existing structures, way back here and back in here. So the reason it got pulled back was they were way out into the lake and they were filling in the lake. That is why the application was changed. If what was built was the original application as part of the structure that was approved, it went from an original coverage of 552sq.ft. to the March proposal of 965sq. ft. You are only allowed 10% coverage. On a lot that size you are only allowed 150sq ft. of coverage based on the original calculations of the lot coverage by the applicant. They changed the lot size from the March proposal to the August proposal. They said, all of a sudden there is 1758 sq ft. Now we get an additional 175 sq ft. vs 150sq.ft. But, they made a reduction but it is still 4 almost 5 times what is allowed for a property that big. So there is a laundry list of variances required. You see as construction approaches, here is the timber, what they were going to build is the cribbing way out here and fill the lake. You can see it in the photographs. You can see, I measured back from the original crib, which is 7 ft. further that it was. On this picture you can see the corner getting filled. That's additional sq. footage of permanent structures. There really is no question about it. Here is the grade excavation and the grade change. So essentially you could have a complete patio and increase the usage of what you have down there. The cantilever we were talking about is not 14 inches as represented the cantilever is way out. It's the permanent structure that is beyond the point of the neighbors and is also into the riparian rights. There is no way this could have ever been approved without a variance, but even against the zoning ordinance. We are talking about temporary docks here and the real issues are the permanent ones. When you go back to the structures, this planter area is now a usage of a patio that is a chimenea but used as a patio, it's not a planter. The area of the gravel at the side is extra storage space. The intent and purpose is for a patio. You can't alter an existing non-conforming structure in our zoning ordinance without variances. This staircase move needs side yard variances. It's also a bigger staircase because the treads are deeper, so it needs a coverage variance."

Chairman Kenan asked, "Why does exterior stair require a set back?"

Mr. Ramsgard said, "It's a structure. The Village of Skaneateles has always interpreted staircases as structures. Sidewalks have not been interpreted as structures. When we did the work for the neighbors to the north you required us to comply with the 25 ft. side yard setback for placement of our permanent dock and we had long discussions over the angle because we created our angle perpendicular and when it came out to the 40 feet we could not touch the line as it projected. We were limited by that. I know there is no way you can build this permanent stuff that was already put in place without significant variances. The temporary dock is not even worth a discussion because the real issues and all the variances of stuff that is now completed are really the significant issues."

Chairman Kenan said, "So are you saying if I want to build a field stone wall on my side of the property line I need a side yard setback variance?"

Mr. Ramsgard replied, "You need a side yard setback for a retaining wall. A fence is allowed to be on the property line."

Mr. Eggleston said, "The zoning law says that walls and fences do not require a side yard setback if they are no higher than 3 feet or 6 feet if beyond the front yard. A retaining wall can't be more than 3 ft. above the natural grade. So, I think Andy is misspoken."

Mr. Ramsgard replied, "But this retaining wall is higher than 3 ft."

Mr. Kenan said, "You said the stair is a structure and would required a side yard setback if it's closer than the required setback?"

Mr. Ramsgard said, "If it's more than 3 ft."

Mr. Eggleston said, "He also misquoted section 225-69d where he said alteration of a nonconforming structure, no, it says expansion of a nonconforming structure require a variance."

Mr. Ramsgard said, "And alterations."

Ms. DuBois said, "I did talk to Jorge about how free standing steps had been handled historically and he told me that when they are freestanding, not attached with a structure, they have not been treated as a structure for purpose of setback. When they are attached to a building, yes they do."

Mr. Galbato said, "For purpose of set backs, just like sidewalks and blacktop, and pavement is not treated as structure for side yard set backs."

Mr. Eggleston continued, "Some of the other misinformation that Andy is feeding you the 10% coverage is in the lake shore setback zone. The definition of the lakeshore setback zone is any area of any lot located between the side lot lines and the lake line and a line located 50ft onshore from the lake line. What he has included is structures that are beyond the natural lake line. So what happened, we added up the area when we revised the lake line. Instead of going this way, we took it this way (indicating on the drawing). That accounted for the change from April to August. Then we took the areas, and I have all the areas within the lake setback zone."

Chairman Kenan said, "So your interpretation is that the rule applies from the lake line inboard 50ft. and parallel to it. But you can do anything you want without restriction in the lake?"

Mr. Ramsgard said, "Yes, that's what it means if you interpret it that way."

Mr. Eggleston said, "What we did on the site plan, for clarification,

Mr. Galbato said, "Mr. Chairman you have the 90% open space within that 50 ft. lake shore setback zone."

Chairman Kenan said, "But the 90% doesn't apply if you are building something in the lake, or have something in the lake?"

Mr. Ramsgard said, "OK, there will be a lot of changes." (multiple voices, unclear)

Mr. Eggleston said, "We did structures beyond the lake line, just to clarify that. And then structures within. However you slice it, there has been a reduction from what was existing to what's proposed."

Chairman Kenan said, "Both before and after you are saying it is under the 90%?"

Mr. Eggleston said, "It been the determination of both Jorge Battle in the April application and Elaine in the August application."

Chairman Kenan said, "Help my memory, in April a variance was granted?"

Mr. Eggleston said, "No, a variance was not required. Very specifically in the minutes the question was asked to Jorge Battle "Is a variance required" and Jorge said "no."

Mr. Galbato clarified, "On April 7<sup>th</sup> of this year this Board granted site plan approval."

Chairman Kenan asked, "If it was below the 90% required why was a variance not required?"

Mr. Eggleston replied, "It was determined there was no expansion therefore we weren't looking at section 225-69d."

Chairman Kenan said, "So the interpretation hinges on the question of whether it's an expansion of a nonconforming use, is that what you are saying?"

Mr. Eggleston replied, "Yes, I believe that is (muffled) what they are making."

Mr. Wiedor said, "Mr. Chairman and Board, if I could just add a comment because obviously this is a very emotional challenge for the professionals in town and you the Board. I just want to show you, these are some drawings from the files in the Village. (Referring to photos submitted by Mr. Ramsgard dated August 5, 2011) Some aerial photos dated 2001, 2006 and if I can hold the 1984 photo. I bought the main house up on the hill that was under construction in 1998. The Chappell Family owned the cottage property which is a 30ft. strip 600ft. long. We bought those in the fall of 2008 and merged those two lots together. We went through this Board. I just want to show you from an aerial shot. I don't think we changed anything. We came in here to replace a obviously very decrepit, very deteriorated, dock, unsafe conditions, creosote railroad ties, which were used back in the era when you could buy them from the Skaneateles railroad for a dollar apiece. The prior owners used those. They outlined the entire property, they built seawalls with it and you can see the shape of the dock back then. It came off the seawall." He described the property as he bought it, pointing to the picture, as having multiple fences, gravel through the grass, a picnic table, a grill, a table in the center of the yard, and a patio. "When I bought the property in 2008, we started by removing railroad ties around the perimeter of the property. I eliminated the gravel that came down the side of the property to the lake rights. I eliminated the gravel that was in the middle of the yard and I ended up putting a patio as part of my

landscaping project. I don't know how this got so twisted. All I've done is take an existing, made it a little smaller so we didn't encroach on any kind of a variance, we did a repair and replace on this unsafe situation. If you read the minutes from the April meeting we disclosed we were going to go to one level. You can see there were multiple levels, it's high here, low here. I don't know how this got built over time, there used to be a walkway into the lake. You can see the step down concrete here. There used to be walkway into the lake here. We put stairs instead of a walkway. We put the same size stairs here. We tried to do everything as a repair and replace and now we are sitting here arguing over an inch and half in this direction. The whole thing is smaller. I tried to make sure we weren't going to go any bigger, not enlarge anything and just improve what we had. I didn't need any more square footage. What we had is absolutely fine. Here it is in 1984, it's in place in 1984. I don't know when it was put together, Mr. Chappell and his family owned this property back to Mrs. Belmonte's (unclear) era. They bought it when these codes weren't around, when things didn't have to be built perpendicular. I know when this house was built the rules changed and they had to follow a different set of rules. We asked this Board to replace what's there. We are not going to enlarge it, and we are going to keep it the same shape. The wall is the same shape, we just took out creosote. It was concrete here, there was concrete underneath, someone backfilled and raised it up. I don't know why that was done. They used railroad ties. In the time that was popular. I'm very sorry that is so confusing. I guess we are going to sit here and argue was this this way, was this that way. I can show you by pictures. There was a question if this is 16ft. long. Well this dock is 10ft. center line to centerline here. That's about a foot and one half, you can see back to the seawall here that's another 4 ft., that's 16 ft. What's the drawing say, 16ft. 6 inches. It's the sheet piling on it." Mrs. Wiedor added, "Which we asked permission to do."

Mr. Langey said, "The problem I think is, Mr. Eggleston has already indicated that these drawings currently contain inaccuracies, he had mentioned that a few moments ago. So there is some concern as to whether the drawings are accurate, how they all relate to each other. If we take this back, our client, Mr. Mezzalingua, doesn't have a problem with the idea that modification could be made, he simply wants to make sure the process is followed since he himself has followed that process. There really isn't any animosity here at all, so I wanted to make that clear. Andy has indicated a number of issues that we think the Board needs to carefully look at. What caught my interest, I just recently was involved in this, looking at the application from earlier in the year, it did appear that this was proposed by the architect as simple repairs. When I looked at it, representing over a dozen municipalities and many planning boards, it looked like many things were reconfigured rather than repaired and now there many different lines that we are looking at than used to exist before. I think we have to be careful when we use the word repair when we are talking reconfiguration and reworking of the site. The only purpose of us appearing tonight was to get all of this in the record itself and have that in the record. I submitted a letter earlier today; I faxed it to Ric's office as well. I've got additional copies for the record. (he submitted a 5 page letter dated September 8, 2011) We simply want to get all of this into the record and make sure the approvals, if they occur, occur pursuant to the actual regulations. Any variances that may be needed go to the zoning board. There certainly does appear to be a number of issues that have been raised, especially with the architect indicating that perhaps these, the lines on the drawings right now, are not accurate. We certainly would expect the Board deal with accurate information when they are making approvals."

Mr. Eggleston said, "The intent of my statement of 'this is not accurate' this was a proposed drawing. There were field modifications made so this is not an "as built" drawing. They built it slightly, they built it more conservatively. That was my comment relative to my saying 'These are not accurate' because these are not 'as built'. It was proposed to be on the line. The retaining wall was proposed to be on the property line. They chose to build it 7 inches" (multiple voices, incoherent)

Mr. Wiedor said, "Mr Chairman the last point I'd like to make is this is the minutes from the April 7<sup>th</sup> meeting, as far as disclosure goes, Mr. Eggleston and I, I went over the key things we just went over and they are all in the disclosure: 'modify and put in steps so he can walk into the lake, wider safer steps, make it all one level so it's safer than what he currently has, use fiber composition piling that gets driven in front of existing creosote timbers, slightly remove a bit of the structures that are there, that's the reduction into the lake, and relocate the stairs and make them centered. Everything that has been asked for I believe we have disclosed fairly and it's in the minutes of the meeting before. I'm very perplexed as its been presented as a misrepresentation or something. Again, I don't know if by looking at these sequence of drawings determine the shape of the dock, you certainly can't get dimension accurately from it, but Sir, I don't think we added one square inch to this property."

Mr Langey said, "I would say this is why there are submission requirements so that this kind of confusion doesn't occur, that an application paper comes in and then at a meeting additional information is brought to the board that night. Certainly the boards I represent they require all the submission requirements be met so that the board understands in writing as part of the record what they are approving or not approving. Clearly that didn't happen here because we are back here tonight to fix the problems that occurred with the original application. The other concern that I do have, its my understanding that the work we are talking about here tonight having the Board approve is actually done. Totally complete. , I don't know if that is true or not."

Mr. Wiedor said, "That's true, here's the photo."

Mr. Langey continued, "There obviously was an attempt to get the work done. I'm not certain why the town didn't put a stop work order or advise the applicant to just hold off until it actually got approved. We do have that a lot in towns I represent and yes we tell them to stop their work until the approvals are in hand. It's awfully difficult to tell an applicant to reverse what they have done. And sometimes we do see a rush to complete the work with the hope that perhaps the regulations will be overlooked."

Chairman Kenan asked, "What are you saying was not approved?"

Mr. Langey said, "Well Andy has a whole list of things."

Mr. Ramsgard said, "I'm saying the size, it's bigger. It's significantly bigger than it was. I'm saying it's 400 sq. ft. bigger than it was when it was originally represented."

Mr. Kenan asked, "So I understand the 400 sq. ft. you are talking about, where is that?"

Mr. Ramsgard said, "From your site plan this was not represented at all (pointing to brick patio in the south east corner) that is 152 sq. ft. that is half of the requirement right there. That is a patio that didn't

show up on any drawings until we brought it to the Boards attention in August. That is a structure within the shoreline. They modified the way they calculated it so they could accommodate that.”

Cjhairman Kenan asked, “This existed before the construction?”

Mr. Ramsgard said, “Here was your existing plan that was represented to you (showing site plan that was approved April 7, 2011 dated March 17<sup>th</sup>) This is what it was. They didn’t cut it far enough back to represent all 50 ft. They also represented this whole entire area as a patio which was not. So, I disagree with the representation here that this whole strip was grass and planter and tree in that section. So that you pick up another 6 ft. by almost 18 ft – 20 ft. Then there is an increase here by squaring off this corner which shows up here. They say that going beyond the lake line you don’t have to count. If that’s the way you interpret it and the ZBA interprets it, great, because I have a lot of clients that will come. That says I can build anything I want as long as I’m passed the water line. I can go property line to property line and I can go out to 40 ft. I can have a gigantic platform out there if that’s the way you apply it.”

Mr. Galbato said, “If the State will let you.”

Mr. Ramsgard said, “Well the Village would let you based on that interpretation”

Mr. Galbato asked, “Based on what interpretation?”

Mr. RAMsgard said, “If that is correct”

Mr. Galbato said, “If what is correct?”

Mr. Ramsgard said “I’m trying to tell you. If you don’t have to count in your structures everything that is beyond the 50 ft. line. If you have a virgin lot out here and there is nothing on it, and you only build stuff out here, and you don’t have to count that against your 10% aggregate, ratio in the zoning ordinance. They could have a 30 ft. wide 40 ft. deep platform out there, that would be a massive thing. That what’s the implication of that interpretation is. All the applications I have ever presented, we have always counted, and the Village has always required the counting of all the structures that are made within the 50 ft. When you go out into the lake you have to count. You can use all your 10% just in a dock. You don’t have to have anything up here.”

Mr. Wiedor said, “Sir, this was not new construction, this was replacing existing. And as far as Mr. Ramsgard saying we were filling this in, we cut this back. It is at 16 ft. exactly where it was before. If we would have built it out to here this would be at 18ft. It’s at 16ft.”

Mr. Ramsgard said, “It’s not cut back, it’s out there.”

Mr. Wiedor said, “Mr. Ramsgard continues to mislead the situation here. This is crusharun gravel on this side and all the way up to the driveway. This was crusharun stone down through here and crusharun stone right in the center of the yard where the picnic table was, the walking path for the lake rights people and a fence that connected the corner of the building to the end of the yard. In 2008, I

tore the fence out, I raked out all the gravel from this area, and I ran out of time in the fall. In the spring of 2009 I grass seeded this and I moved the gravel patio stone that was here and reused brick from the sidewalk on the house that I had when we had our sidewalk repaired. I put back in place, did I do it with a permit? I didn't think landscaping required a permit if I was just cleaning up the yard. If I'm wrong on that, I'm wrong on that. But this misleading statement that I squeezed this in as part of the project. The reason Mr. Eslinbaum's drawings don't show it, it wasn't part of the project, it was done in 2009 & 2008 when I bought the property as part of the cleanup to get rid of the railroad ties, the gravel and put grass in there. I don't know where he comes up with all this."

Mr. Ramsgard said, "Those are Mr. Eggleston's drawings and those are Mr. Eggleston's calculations and his drawings and site plans in the originals didn't have that then all of a sudden it showed up."

Mrs. Wiedor said, "Because it wasn't part of the project."

Mr. Ramsgard said, "But it was there so you have to measure it."

Mr. Eggleston said, "We figured the lake line in a different location."

Mr. Ramsgard said, "Wait you just changed issues. There is no way you would ever not calculate based on the lake line for that case."

Mr. Eggleston said, "And also, what's beyond the lake, Mr. Ramsgard says he going to fill the whole lake with shoreline structures, (interrupted, multiple voices) There are other provisions in the zoning law that cover what limitation are for size of structures beyond the lake line. Again, how Mr. Ramsgard has interpreted the lake shore set back zone in the past, I can't help how he interprets it. I've read the zoning law. That's what it is. It's from the lake line back."

Mr. Galbato said, "Lakeshore setback zone, Mr. Chairman, is defined under 225-4 of our code as the area of any lot located between the side lot lines, the lake line, and the line located 50 feet on shore from the lake line."

Chairman Kenan asked, "What determined this angular line that is shown as the natural lake line?"

Mr. Eggleston said, "When I had some discussion with Mr. Ramsgard he said, you have to take the natural lake line as opposed to the man-made lake line. The original application we took the manmade lake line based on where the... (Interrupted by Mr. Ramsgard)"

Mr. Ramsgard said, "Oh, so then you did calculate it the way I do, originally, which was you followed the perimeter of what was there and did the coverage."

Mr. Eggleston said, "But then you said no, you should take the natural lake line, I said fine I'll do it that way then. We'll figure it using the natural lake line because lake line is the beginning of the shoreline set back zone."

Mr. Ramsgard said, "You're talking apples and I'm saying oranges. There are 2 issues here. What area do you get to count 10% of? And then what area do you count as part of your structures."

Mr. Wiedor said, "All these rules. Isn't this a grandfathered situation? This was built before 1984 before all these rules were in place. I feel like I'm defending our grandfathered rebuilt against a set of new criteria and I'll never win that. Of course I'll never win that because it wasn't built to this set of codes, that's why we asked to grandfather, to repair and replace as opposed to new construction."

Mr. Kenan asked, "Is this the April plan that the Planning Board reviewed? So, that was what was proposed. And there has been no further action on the part of the Board."

Mr. Eggleston said, "The question was raised over whether a variance was required and Jorge said 'No' for the work we were doing, we were shifting the location of the stairs so the questions was ..."

Mr. Langey said, "I think that's an overstatement Bob."

Chairman Kenan said, "You are saying that subsequent to the Planning Board approval of this you talked to Jorge about moving the stairs?"

Mr. Eggleston said, "Yes, we talked about moving the stairs, he didn't require us to get a variance. The question was raised during the meeting and Jorge answered 'no'. In other words because we shifted the stairs does that have to fall into the setbacks."

Mr. Ramsgard said, "The Planning Board never approved the stairs in that location so what I understand is I can come in and show a plan, I can change it in construction and I don't have to worry about what the Planning Board ever saw and I can just shift it around. That's what I'm hearing."

Mr. Galbato said, "No, that's why we are here for a modified site plan approval."

Mr. Langey said, "What we are discussing is basically going to set the Planning Boards' review of these things going forward in the future. I think we have to be very careful of what is being said here because these architects are going to come in here looking for the exact same things for other applicants and it has to be looked at consistently."

Mr. Galbato said, "Which is what we are doing and what we have done in the past."

Mr. Eggleston said, "We can go through the files and look at previous applications on other projects and what was represented and approved. Field alterations occur all the time."

Mr. Kenan said, "So this is what was approved. (drawing dated March 17, 2011) This is what was built?" (Pointing to drawing dated Aug. 10 2011)

Mr. Wiedor said "Yes, sir"

Chairman asked, "And you are asking for site plan approval for this?"

Mr. Langey said, "But that plan is not accurate that you are looking at. That is not an accurate plan as we sit here at this moment. This plan was a very simplistic plan for repairs to an existing condition. This plan shows reconfiguration of site improvements in many, many different ways that we don't believe the Board understood at that time."

Mr. Kenan said, "I don't understand now other than the stairs being in a different dimension and a different location."

Mr. Langey said, "Well Andy has walked through a lot of the other stuff in this submission. (He submitted 16 pages of photographs and one page labeled "Site Plan Review Variances" dated Sept. 8, 2011)"

Mr. Kenan said, "The picture that shows and Andy said, that the sheeting went out further than the old fill that was there. But is that any different from this configuration, in a significant degree?"

Mr. Eggleston replied, "No, the sheeting was brought back once we saw where the exact crib wall was underneath."

Mr. Langey said, "We just want to get this right, that's all. If anyone sits back and looks at this from above they'd say."

Chairman Kenan said, "So my question is, what I'm looking at here, (pointing at picture showing part of the cribbing in) Does this drawing showing what was built, is it any different from what the photo's show? Is it materially different than what was built, other than the stair location?"

Mr. Wiedor said, "No Sir."

Mr. Ramsgard said, "Yes, the material difference is they said that was an existing condition and it wasn't. It shows up over and over. You can see the existing condition now is changed from a square, rectangular slab to a angled slab then it got squared off by that."

Mr. Kenan said, "Well, Andy, if I understand this drawing correctly, you're suggesting it got squared off like this, meaning entirely addition. That's not true because it is 6 inches longer on that side but clearly in closer over here. This point hits the lake line. If the drawing is accurate it got 6 inches bigger there but perhaps a foot lesser on the other end of it. Is that the material difference?"

Mr. Ramsgard said, "The material difference is it can't be. You can see water in there. That's the lake bottom that was supposed to be a concrete slab. It can't be."

Mr. Kenan said, "What you are saying, and I don't know if the minutes reflect what was said at that original meeting, you are saying they represented this was the existing lake line. The drawing does say that, "old concrete slab." You are suggesting that was a misrepresentation at the time. What was approved, other than that stair location, was what was built? Are you in agreement with that, in a material degree? If it's 6 inches different, but if it hangs over somebody's property line that is something else again."

Mr. Ramsgard said, "That's probably accurate."

Mr. Langey said, "But that doesn't change Andy's analysis of the various variances, some of which we have discussed, some of which we have not discussed."

Chairman Kenan said, "And you are suggesting that the coverage factor should be measured for everything that is into the lake, beyond the natural lake line, as well as what is inshore. Is that what you are saying?"

Mr. Ramsgard said, "Yes, and establishment of that lake line is also arbitrary because there is not a survey that backs that up. So we have no idea whether that is accurate."

Chairman Kenan said, "OK"

Mr. Langey said, "The DEC permit that was granted, I haven't seen it, but there were original concerns about, the phase used was filling in the lake, and I don't know if that has been addressed with whatever emails you have. We didn't know if the DEC would be an involved agency for the purpose of a SECR review for this particular application. We originally thought that the ZBA would have to give approval, the DEC may have some approvals."

The Chairman asked, "Was a SECR determination made?"

Mr. Galbato said, "No, you would make one tonight if you chose to move forward with this."

The Chairman said, "So we discussed the request for an amended site plan approval, and perhaps one is necessary because of the movement of the stairs and I'm not sure what may be materially different here. We discussed the need for a variance for the temporary dock. And you've presented arguments why there should have been other variances reviewed at the time the original approval was made."

Mr. Langey said, "The other modifications, I don't know if they became clear in the minutes, was the change of grade. The removal of a tree I don't think was included in the application. That is yet another one, just to keep your record clear of the additional things that were taken out that weren't presented in the application."

Chairman Kenan said, "The question of the other variances."

Mr. Eggleston said, "We have had 2 CEO not make the determination that any variances were needed. Jorge reviewed it, he was questioned at the meeting he confirmed, no there are no variances required. Elaine has reviewed the application and I believe she has determined there are no variances required. That's being modified from the April meeting."

Mr. Langey said, "So as far as the amended application goes, it is her interpretation that there will be no further variance necessary. Is that what I'm hearing?"

Chairman Kenan said, "Is that a question or a statement?"

Ms. DuBois said, "For the site plan, removing the temporary dock issue?"

Mr. Langey said, "No for the amended plan. As Bruce had mentioned he wanted to know what the differences were so we described those. So the question becomes, in light of moving the stairs to a different location, and the additional stuff are there variances that are necessary for those things."

Andy's argued that if you leave those stairs right where they are, maybe that's fine, but shift them over inside a non-conforming lot you may be looking at variances. So the question is; Is that the interpretation of your office for purposes of this new plan?"

CEO DuBois said, "Yes, historically stairs have not been treated as structures when they are free standing. We have not required variances in the past."

Mr. Langey said, "This is a free standing stair that is attached to a ..."

CEO DuBois said, "It's not attached to a building."

Mr. Langey said, "Well we have the option of appealing that interpretation I suppose."

Mr. Kenan said, "And such an appeal would be taken where, to the ZBA?"

Mr. Langey said, "Yes, we would have to go to the ZBA. But you would probably get a recommendation chance at it, which is ironic."

Mr. Kenan said, "So we have the CEO interpretation which brings us back to the 2 original pieces of the application: an amended site plan approval and a variance request for the temporary dock. Anybody want to ask further questions or discuss that?"

Mr. Galbato said, "If the Board wishes to act tonight, you could decide on those issues and if you do that I think your first motion would be a SEQR determination. If the Board chose you aren't ready and want more information, you have the right under the code to schedule a public hearing for site plan review."

Mr. Sutherland asked, "Do you need a public hearing for site plan review?"

Mr. Galbato replied, "No, it's discretionary."

Mr. Kenan addressed the Board and said, "What's the Board's pleasure?"

Mr. Galbato said, "Could we at least start with the SEQR review? The applicant submitted a short form for unlisted actions. Arguable, this a Type II action because it is a variance request and site plan review for modifications, repair, replace whatever you want to call it. It could also be deemed an unlisted action under SEQR. I would like to state for the record this Board could consider this a Type I action under our own code, we have provision 95-12 that has some additional items in addition to the SEQR regulation of the State of New York. The State Environmental Quality Review. I just wanted to point out that the Board could consider this a Type I action under section 95-12 B (3) which states, 'actions that result in the natural cover or topography and that may cause or contribute to sedimentation and siltation of Village streams and /or Skaneateles Lake' would constitute a Type I action."

Mr. Langey said, "Ric, my letter suggests that a long form and a possible Type I"

Mr. Galbato said, "I have not seen your letter."

Mr. Langey said, "I called you a couple times to let you know it was coming. I didn't get a call back."

Mr. Galbato said, "Unless the Board feels that provision applies, the Board could declare themselves lead agency, that it's an unlisted action under SEQRA, with uncoordinated review, as the DEC has already approved the original site plan, indicated the modified site plan that Mr. Eggleston submitted by email to the Village on September 6<sup>th</sup> did not require a new review and that our own ZBA will look at this application as well. So in a sense there is going to be an additional review by another Village Board and there already has been DEC review and approval. That's a compelling case that a coordinated review is not needed."

Mr. Langey said, "We don't know if the DEC saw that filling in. That was point earlier. They have not signed off on what actually occurred, correct."

Mr. Wiedor said, "Sir, we did not fill anything in. We modified from the original request and pulled the seawall back to the (interruption, multiple voices) Even Mr. Ramsgard picture shows the corrugated wall is up against the original railroad timber. We do not have any fill in."

Mr. Langey said, "I didn't observe it so I apologize. But we have those photographs and Andy has indicated to me that he saw it."

Mr. Eggleston said, "I observed it and there was no filling of the lake beyond what the DEC allows. The DEC allows you to go a foot in front of an existing structure when replacing the structure."

Mr. Ramsgard said, "I did observe there was filling in of the lake. I did observe and the reason why they cut back the permanent dock was because, this photo shows it, they were going to build 6 1/2 ft out in front of the timber."

Mrs. Wiedor stated, "But we did not."

Mr. Ramsgard continued, "Right, but that timber also shows up in multiple times and the fill keeps climbing and climbing."

Mr. Langey said, "We would just be more comfortable if the DEC took a look at it and said yes, what we said back in April and the condition that we have now, covers what we had said. I just don't want there to be any confusion."

Mr. Wiedor said, "Here is a photo looking from the south to the north. This is the Mezzalingua's seawall that is in reference here. If that railroad tie timber wall and my railroad tie timber wall were in line as Mr. Ramsgard said earlier, then apparently my timber wall is behind his timber wall. This is my timber wall right back here and this is 1 ft. 4 1/2 inch cantilever that is in question tonight. That's up against the timber wall and you can see the edge of their wall that curves around back that way. Sir, I don't understand all the accusations that are being made."

Mr. Ramsgard said, "This is the photograph, this is the end of the Mezzalingua's wall. This is the end of the timber as we found it one day and the wall is out here and the cantilever is here."

Mr. Wiedor said, "That's not what was built. It was framed, we were corrected and we brought the wall back. What he's showing, was taken one day, the wall is in line with their wall. And there is the picture sir."

Mr. Smith introduced himself and said, "Duane is a friend of mine and I have observed his whole project. He is absolutely correct in his statement that they brought the wall back so it is in front of the timber. I'd testify in an affidavit if you want. If you are going to argue over him filling in the lake, he did not. (Mr. Langey started to talk) No, wait a minute. I'll tell you. I'll put in an affidavit."

Mr. Langey said, "Filling in the lake is a term the DEC decides, not me or Andy or you or anyone else."

Mr. Smith said, "OK, I'll agree with that, but he did exactly, what happened was exactly what Mr. Estlinbaum said the DEC approved for him to do. He put corrugated piling right in front of the timber. It was right there lined up I observed it and I said I'll put it in an affidavit."

Chairman Kenan said, "OK, let's do this; It's not a public hearing. We are generally very easy going on that subject and I know you came and wanted to speak to us on that. I'm going to assume we have heard enough at this point. Unless anyone feels differently, please speak up, don't let me cut you off. So, we have to make a SEQR determination. You were outlining the choices, it's a Type I, a Type II, an uncoordinated review, and those aren't all mutually exclusive, right?"

Mr. Galbato said, "Type I if you believe that that provision under our own code is triggered. If you don't I think it could be a Type II."

Chairman Kenan said, "I assume that the action we are considering is the one that has been substantially completed already?"

Mr. Galbato said, "Exactly. If the Board does not feel our own code provisions are triggered by that clause..."

Chairman Kenan said, "If we determine it's a Type I according to this provision?"

Mr. Galbato said, "Then we are not ready for a SEQR in the sense that a long form EAF would have to be submitted before we can start moving on it; which is fine if the Board thinks that provision is triggered."

Chairman Kenan said, "Help me out, I quit reading SEQR rules a long time ago. What is a Type II?"

Mr. Galbato said, "A Type II means there is no review required, which is like most variances. This property, construction substantially complete, was close to the lakeshore. There is an area variance, according to our CEO for the temporary dock. The Board could consider this to be an unlisted action, declare themselves lead agency but uncoordinated review, as the DEC has already approved the original site plan, and indicated no further review is needed with the modified plan, and that is part of the record, and the ZBA is going to be the agency that gives the final approval in regard to the variance and possible interpretation of the CEO determination."

Chairman Kenan said, "Everything you said makes sense to me. The uncoordinated review, because that's exactly what has taken place so far. Do we still declare ourselves lead agency consistent with that? Anyone care to make a motion?"

Mr. Galbato said, "I'd just add to the motion authorizing you to sign the short form EAF completed by the applicant."

Chairman Kenan said, "I'll make that motion, will someone second me?"

**The motion was for the Planning Board to declare itself Lead Agency ; Declare it an Unlisted Action under SEQR with and uncoordinated review ; and issue a Negative Declaration under SEQR; and authorizing the Chairman to sign the Short Environmental Assessment Form.**

Mr. Sutherland seconded the motion.

The vote was 4-0 in favor of the motion. The motion was declared passed.

Chairman Kenan said, "Now, variance request on the dock, anyone have any thoughts on that?"

Mr Galbato said, "That would be an advisory opinion to the ZBA on the variance application for the temporary dock."

Chairman Kenan, "I think that my interpretation is that your interpretation is correct. (Speaking to CEO DuBois) Anything other than that funny triangle that is created would require a variance. I think in any circumstance you would want the dock to fall within those conservative lines. In this case, it is a preexisting, 30ft. strip of land. How that happened only someone decades ago could explain. I view it that is a hardship that grows out of the fact the land was subdivided in that form years ago for the purpose of getting access to the lake. I think it would be inappropriate to deny access to the lake over that land, in some form. That's my thoughts. Does anyone have any thoughts on whether they want to recommend approval or denial for variance of the dock, if you want to recommend a different arrangement of it. "

Mr. Sutherland said, "I'm really confused as to what the right thing to do is. I don't know that I would recommend one thing or another but rather pass it on and ask them."

Chairman Kenan said, "We can always send it to the ZBA without a recommendation if that's your thought."

Mr. Sutherland said, "It isn't meant that I have a particular view, I'm just legitimately confused what the right approach is under the circumstances."

Chairman Kenan said, "I guess the question is; If you have a 30ft. strip of land is there a circumstance by which you could put a temporary dock? Toby, any thoughts?"

Mr. Millman said, "I concur with your interpretation of Elaine's interpretation, that her interpretation is correct. I agree also with your assessment that there is a preexisting condition here that it would be

perhaps inappropriate to prevent this pre-existing condition to not have the luxury they have had all these years. "

Chairman Kenan said, "There has been a temporary dock there in the past?"

Mr. Wiedor said, "Yes Sir, since prior to 1984. There were 3 when we bought the property. Mr. Chappell had one, the lakes right, I was the lake rights owner, I bought the property and that was the 2<sup>nd</sup>, and there was a 3<sup>rd</sup> on the lake rights to the property to the north. I consolidated 3 down to 2 by negotiating with the neighbors that we get one and I put it in and out every year. Then I got it down to 1 when I bought the other property. So it went from 3 to 2 to 1 in that space."

Chairman Kenan said, "Do you want me to make the motion? I'll move that we recommend the variance for the temporary dock for the reasons I expressed, the non-self imposed hardship of the long standing dimension of the property. Anyone care to second that?"

Ms. Keady said, "I would second that."

Chairman Kenan said, "I was just asked the question if we recommended approval a dock or a specific configuration. I believe we recommended approval of that configuration."

Mr. Eggleston said, "Based on August 4, 2011, page three of three drawings."

**The motion made by Mr. Kenan was to recommend approval of the variance for the temporary dock, in the configuration shown in the drawing labeled page 3 of 3 submitted by Bob Eggleston and dated August 4th 2011.**

The vote was 4-0 in favor of the motion. The motion was declared passed.

Chairman Kenan said, "Anybody have a suggested motion for a modified site plan approval? The modified site plan is based on drawings one and two of three dated August 10, 2011. I'm going to move that we approve the modified site plans shown in pages one of three and two of three each dated August 10, 2011."

Mr. Sutherland said, "So this shows the stairs in the as built location. Other than the stair and the 7 inches off the property line what other things are different from the April submittal?"

Mr. Eggleston said, "The extension of the dock was 33ft. vs.30ft. And again these are all noted here. (Referring back to the chart Mr. Wiedor had presented earlier) We had an 8ft wide stair and we went to a 4 ft. wide stair. There was an area that didn't have the patio on it, that's the crushed stone. Then there is the reduction in the length from 33ft. to 30ft. The 4<sup>th</sup> one is we are 7 inches off the south property line."

Chairman Kenan said, "There is a motion, is there a second?"

Mr. Sutherland seconded the motion.

**The motion was to approve the modified site plan shown on pages 1 of 3 and 2 of 3 of drawings by Bob Eggleston both dated August 10,2011.**

The vote was 4-0 all voting in favor of the motion. The motion was declared passed. The meeting was closed at 10:07pm.