

**TOWN OF STONY POINT  
Zoning Board of Appeals  
Minutes March 21, 2013**

**PRESENT:**

Mr. Morlang  
Mr. Keegan  
Mr. Casscles  
Mr. Vasti (Acting Chairman)  
Mr. Fox  
Mr. Porath

**ALSO PRESENT:**

William Sheehan, Building Inspector  
Dave MacCartney, Attorney  
Kevin Mulhearn, Special Counsel  
Patricia Puleo, Court Reporter

Chairman Wright (absent)

**Acting-Chairman Vasti:** Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order, please rise for the Pledge of Allegiance.

Tonight, I will be filling in for Tom Wright as the Chairman Pro-Temp.

On the agenda for March 21, 2013, we have a decision, a new application and a Public Hearing for the request of the Town of Haverstraw. Consideration that the attorneys are here, I am going to move the agenda around and I am going to begin tonight with the request of the Town of Haverstraw.

**Request of Town of Haverstraw – App. #13-02**

Interpretation and appeal of the Town of Stony Point Building Inspector’s decision in regards to permitted use, located at the east end of Holt Drive, 1800 feet and the east end of South Liberty Drive/Route 9W, (also known as Hudson River View Industrial Park Building D) (property), for the proposed gasification plant.

**Section 20.02                                  Block 11                                  Lot 25                                  Zone RR**

(At this time Patricia Puleo, court reporter, took the minutes for this application.) Her minutes will be attached to this agenda.)

**Acting-Chairman Vasti:** Next on the agenda we have a decision for the request of Nancy Miranda.

**Request of Nancy Miranda - App. #13-01**

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A h.1-5; Less than required side setback: Required 15 feet provided 7.9 feet, for an attached garage, located at 13 Heights Road, Stony Point, New York.

**Section 15.04                                  Block 1                                  Lot 40                                  Zone RR**

**\*\*\*MOTION: Mr. Porath offered the following resolution; seconded by Mr. Fox.**

In the Matter of Application #13-01 of Nancy Miranda for a variance from the requirements of the Town of Stony Point Zoning Code, Chapter 215, Article V, Section 15A h.1-5 less than required side setback, required 15 feet provided 7.9 feet for the construction, maintenance and use of an attached garage, on the premises located at 13 Heights Road, Stony Point, New York designated on the Tax Map as Section 15.04, Block 1, Lot 40.

The premises which is the subject of this application is located at 13 Heights Road, southeast of the intersection of Heights Road and Franklin Drive, in an R1 Zoning District.

The applicant was represented by George Stoll and the following documents were placed into the record and duly considered:

Application; Survey and Plans; email and letter from Rockland County Drainage; Building Inspector's letter dated December 6, 2012.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on February 24, 2013.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on March 7, 2013, and the testimony of the following persons was duly considered: George Stoll and James Kraus.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel which is improved with a single family home. The house fronts and is parallel to Heights Road. The applicant suffers from a medical condition rendering it difficult for her to get in and out of her home, so she wishes to construct an attached garage to permit direct entrance from the garage to the home. The topography of the lot is such that it drops off drastically in the back of the house, so the garage cannot be placed there. The only place where the garage can functionally be constructed is a location on the northwesterly side of the home as indicated in the plans submitted with the application. However, the garage in that location violates the side yard setback requirements of the code, which requires 15 feet, whereas 7.9 feet are provided.

While one neighbor appeared at the public hearing and asked a variety of questions concerning the computations of the measurements of the property, no objection to the variance was presented.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

There is no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to the Board of any feasible method to achieve the benefit sought other than the area variances requested herein.

(3) "whether the requested area variance is substantial":

The variance is substantial in terms of the percentage decrease from the required setback, but the absence of any negative impact on any nearby property is a mitigating factor.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) “whether the alleged difficulty was self-created”:

The alleged difficulty was self created by the desire to construct an addition contrary to code.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above is hereby approved, on the condition that the garage addition shall be limited to the size and dimensions set forth in the application, and the matter is remanded to the Building Inspector for further consideration in compliance with all other applicable laws, rules and regulations.

**Upon roll call, the vote was as follows: Mr. Morlang, yes; Mr. Keegan, yes; Mr. Casscles, yes; Acting-Chairman Vasti, yes; Mr. Fox, yes; Mr. Porath, yes; and Chairman Wright, absent.**

**Acting-Chairman Vasti:** Next on the agenda we have a new application, the request of Gerry Puccio.

**Request of Gerry Puccio, Forty Four South Liberty Drive Association, LLC - App. #13-03**

A variance from the requirements of the Town of Stony Point Zoning Code:

Chapter 215, Article V, Section 15A-B-4 - Less than required front yard, required 15 feet, provided 0 feet;

Chapter 215, Article V, Section 15A-B-4 - Less than required front set back, required 40 feet, provided 34.0 feet;

Chapter 215, Article V, Section 15A-B-6 - Less than required rear set back, required 25 feet, provided 1.5 feet;

Chapter 215, Article V, Section 15A-B-7 - Less than required rear yard, required 10 feet, provided 0 feet;

Chapter 215, Article V, Section 15A-B-7 - Less than required side yard, required 10 feet, provided 0 feet;

Chapter 215, Article V, Section 15A-B-10 - Development coverage, maximum 75%, provided 80%; and

Chapter 215, Article 1X, Section 52-B-5 - Maximum allowed sign coverage, 80 square feet, requesting 100 square feet,

located at 44 South Liberty Drive, Stony Point, New York, for the construction of a commercial building.

<b>Section</b>	<b>20.07</b>	<b>Block</b>	<b>3</b>	<b>Lot</b>	<b>63</b>	<b>Zone</b>	<b>BU</b>
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**Acting-Chairman Vasti:** At this time, we are just going to put this Application on the next agenda, however, if you would like to give a “piece” about it, we could dispense with that.

**Mr. MacCartney:** It is really your pleasure Mr. Chairman. The only question I would have is this on a referral from the Planning Board – I presume?

**Mr. Zigler:** Yes.

**Mr. MacCartney:** Do you know what the status of SEQRA is at the Planning Board?

**Mr. Sheehan:** It is a Type II action.

**Acting-Chairman Vasti:** I am going to assume that the Planning Board is the lead agency on this.

**Mr. Sheehan:** There is no lead agency.

**Acting-Chairman Vasti:** There is none?

**Mr. Sheehan:** It is a Type II action.

**Acting-Chairman Vasti**: So it is unlisted.

**Mr. Sheehan**: And just to let you know this is a replacement of an existing building.

**Acting-Chairman Vasti**: Most of us have been up there.

**\*\*\*MOTION**: Mr. Casscles made a motion to place Application #13-03 on the April 4, 2013, agenda for a Public Hearing; seconded by Mr. Morlang. Hearing all in favor; the motion was carried.

**Mr. MacCartney**: Would you wish to schedule a date for the site visit?

**Acting-Chairman Vasti**: The site visit?

**Ms. Kivlehan**: The Sunday before is Easter.

**Acting-Chairman Vasti**: Most of us were there for a site visit with the Planning Department.

**Mr. Casscles**: Do we have any objections to make it for the second meeting in April because I have a feeling the first meeting is going to be lengthy.

(too many people talking – inaudible)

**Acting-Chairman Vasti**: Are we going to have it at the next meeting then – April 4<sup>th</sup>?

**Mr. Casscles**: April 4<sup>th</sup>.

**Acting-Chairman Vasti**: Okay, thank you Mr. Zigler.

**Ms. Kivlehan**: Are you doing a site visit?

**Acting-Chairman Vasti**: Most of us were up there. If anybody wants to go up there...did anything change Mr. Zigler that we need to do another site visit?

**Mr. Zigler**: No.

**Acting-Chairman Vasti**: If there are any members that were not up there that want to go up there on their own and look at the property...

**Mr. MacCartney**: Anyone is free to visit the property at any time if they want, so long as a quorum is not present. If you are planning to go up with a quorum present, then you need to schedule the date and announce it on the record here. That is the only restriction.

**Acting-Chairman Vasti**: Next we have the minutes of March 7, 2013.

**\*\*\*MOTION**: Mr. Fox made a motion to accept the minutes of March 7, 2013; seconded by Mr. Morlang. Hearing all in favor; the motion was carried.

**\*\*\*MOTION**: Acting-Chairman Vasti made a motion to adjourn the meeting of March 21, 2013; seconded by Mr. Morlang. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan  
Secretary  
Zoning Board of Appeals