

**TOWN OF WASHINGTON
ZONING BOARD OF APPEALS**

July 17, 2007

A meeting and public hearing of the Zoning Board of Appeals was held on July 17, 2007 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York to consider the application of Salvador J. and E. Christina Lang Assael for area variances from the Town Zoning Code Section 330-B(5), Accessory Residential Housing, to allow construction of an accessory apartment and guest house at 4449 Route 44. The property is zoned RR 10.

The members present were: Chairman, Brad Roeller, Peter Audia, Jerry Baker, Donald Marshall, and John Parisi.

The meeting was called to order by Chairman Roeller at 7:33 P.M.

A motion to accept/approve the May 15, 2007 meeting minutes as written, was made by board member Marshall, and seconded by board member Parisi. All ayes.

Previously submitted to the board for the Assael application were completed Application to Board of Appeals, Supplemental Statement pages 1-7, Exhibit A - Deeds for transfer of property from Mora to Assael 11/2/06, Exhibit B - Amended & Restated Conservation Easement Deed, Exhibit C - Assael Residence Site Plan, Survey Map, reproduced Viewshed Photos, Exhibit D - Completed Full Environmental Assessment Form, Exhibit E - Map Parcel Summary, Exhibits F & G - Computer print outs of Computer Parcel Explorer neighboring properties, and Town of Washington Agricultural Data Statement.

Chairman Roeller read the published public notice and related that he and other board members had questions about the classification of the application as a Area Variance or a Use Variance which he saw as being declarations for both. Chairman Roeller sought counsel from attorney for the Town, John Gifford and Neil Wilson, Town Planner, who both agreed that this is a matter of density where residential uses are permitted, and is to be classified as a Area Variance.

Chairman Roeller expressed that this application is undergoing a simultaneous review. The Planning Board is designated Lead Agency if this application progresses from the Zoning Board to the Planning Board. Chairman Roeller stated since the application is a Coordinated Review, he will need to forward the Zoning Board findings to the Planning Board of the review for their site plan and special permit approval process.

A motion to open the Assael public hearing was made by Chairman Roeller, and seconded by board member Marshall. All ayes.

Attorney Richard I. Cantor, Teahan & Constantino, Counsellors at Law, Poughkeepsie, New York addressed the board, introduced himself as attorney for the applicants, Mark Graminski, P.E., L.S., Red Hook, NY and Armand Di Biase, AIA, Di Biase, Filkoff Architects, Bedford,

New York to the board. Attorney Cantor said that the Assaels are seeking the approval of the Planning Board to obtain special permits for three (3) residential accessory housing units. Because they are seeking special permits under the Town of Washington Code, Site Plan Approval is also needed. The Planning Board does not have the authority to grant those approvals for three units, unless and until, the Zoning Board of Appeals authorizes a variance. As indicated by Chairman Roeller, the use is permitted, but under Section 330-B(5), Accessory Residential Housing, while allowing the use, limits the number of housing units to one (1). The Assaels are seeking three housing units. Because of the provision in the Code, and the nature of this application, the Assaels are before the board to seek the Zoning Board's approval for a variance. What is being hoped to achieve this evening, is to have the board open the public hearing, to answer questions that the board or the public may have, and if satisfied with the quantity and quality of the information received, that the board consider closing the public hearing.

Because there is a coordinated environmental review, and because boards may not act until after SEQRA is completed, it is understood that at the end of this evening with the public hearing open or closed as the board so chooses, that this matter needs to be put over until the next meeting. Mr. Cantor expressed that he hopes in the terms of a time-table that after this evening, the application goes back to the planning board for their August meeting. It is hoped that the planning board at that meeting, will consider and adopt a Negative Declaration Finding of No Significant Impact to the Environment. If the planning board does this, then at the August Zoning Board meeting, the board will be in a position, if so chosen, to vote on the variance request.

Attorney Cantor questioned if the board would like either Mr. Di Biase or Mr. Graminski to provide a brief overview of the physical nature of the property, and the application, so that there is some better sense of what is being talked about? Chairman Roeller referred to the completeness of the application, preliminary work, and requested for the benefit of the board as a group, that a brief overview be given. Chairman Roeller commented what is paramount in the zoning board decision making, weighing the merits of the request with the standards in the Zoning Code, is with continuous properties in that area of the Town and in general. A lot of preliminary work has been done in looking at the parcels in the area, the number of buildings, density, lot coverage. Chairman Roeller expressed that he will leave the site plan issues to the planning board to review, the zoning board, specifically, should be looking at the proposal, scope of the proposal, the neighbors, and try to identify the type of impacts.

Armand DiBiase, DiBiase Filkoff Architects, Bedford, NY project architect, introduced himself to the board as a registered architect in the State of New York. Mr. DiBiase presented a aerial photograph of the site that is an eighty acre site located on the west side of Route 44, Millbrook School Road is to the north, Shunpike is to the south. The photograph presented shows the existing conditions of the site. Currently there is a single-family residence on the

Page 2

site of approximately 6,500 sq. ft. a in-ground pool, and a driveway from Route 44 to the main house. There is also a farm road on the site. The site is characterized by open meadows, farmland, and wooded areas. The Assaels also own forty acres to the north of the site which was pointed out on the photograph. Together, one hundred twenty acres are owned by the applicants.

Chairman Roeller questioned if anything in this proposal affects the forty acre parcel? Response was negative. Mr. DiBiase displayed a photograph of the existing house/residence. Board member Marshall questioned where the driveway begins on Route 44? Chairman Roeller said it is the new driveway that has been cut-in across the road from Eliot Clark's driveway. Mr. DiBiase said the house was built approximately five or six years ago for the previous owner, Jorge Mora.

Chairman Roeller interjected that the square footage of the residence is 6,500 sq. ft. and questioned why the application shows 9,400 sq. ft? Attorney Cantor expressed that one possibility is that it is a typographical error in the application. Chairman Roeller said that he picked up several anomalies with the easement and the application; one is the discrepancy between the square footage of the primary residence which falls under the easement, and what the application shows. Mr. DiBiase questioned in what document this is shown? Chairman Roeller said it is in attorney Cantor's supplemental information with the application. Board member Baker interjected that the building area for the site is 9,400 sq. ft. Attorney Cantor asked that whatever inaccurate statement made be deemed amended that the house is approximately 6,500 sq. ft.

Mr. DiBiase continued with showing photographs of the existing house/residence. Board member Parisi questioned if an overlay of what is in the conservation easement will be shown? Mr. DiBiase said that he will present a site plan. Mr. Cantor interjected that he has a copy of the July 16, 2007 letter from Art Collins, Dutchess Land Conservancy, and was told that the letter was delivered to the board at the town hall the other day. In the letter, Dutchess Land Conservancy offers its recommendation to both the zoning board and planning board supporting this application. Chairman Roeller acknowledged receiving the letter.

Mr. DiBiase presented the Master Site Plan SK-1 showing the proposed scope of work that includes a new 1,000 sq. ft. caretakers cottage which will control access to the site, and is in view of the main house. Chairman Roeller questioned if this proposal is permitted outside the building envelope by Dutchess Land Conservancy? Mr. DiBiase confirmed that the caretakers cottage location and architectural features is permitted outside the building envelope and was reviewed by DLC. Mr. DiBiase noted that the zoning ordinance allows one (1) accessory residence, this is being reviewed as the one that is allowed.

Mr. DiBiase pointed out the location of the main house and said that the proposal is to create a courtyard with three additional structures organized around the existing house. Proposed is a new four car garage with a staff apartment above, a three bedroom guest house, and a game room which does not require any special permit. The existing swimming pool will be relocated. Also included in the scope of work is a new tennis court, and a new service driveway to service the four car garage and the greater service area for the main house.

Page 3

Plan SK-2 that zones in on this area of the site was next shown by Mr. DiBiase, consists of the existing residence, the proposed four car garage with 1,360 sq. ft. staff apartment up above, the 1,375 sq. ft. three bedroom guest house, the proposed game room, and swimming pool. Mr. DiBiase next pointed out the 1,000 sq. ft. one story, three bedroom caretakers cottage.

Board member Baker expressed that this location is critical in the sense that it wants to be able to monitor the property, which would be at the entrance of the estate, this was acknowledged by Mr. DiBiase. Mr. DiBiase said that the structure has clapboard siding, wood windows, and stone on the chimney.

Plan SK -4 shows the 1,440 sq. ft. four car garage with the 1,360 sq. ft. staff apartment above, consists of four bedrooms, is a dormitory layout, and has two baths.

Architectural drawings of the guest house and game room were shown. The 1,375 sq. ft. two story structure guest house has three bedrooms, one bedroom with bath on the first floor and living area, the second floor has two bedrooms and bath. The game room also functions as a pool house for the pool, has two bathrooms and a pool table.

Board member Baker requested that the conservation easement limitations be explained. Chairman Roeller said that the conservation easement is between the Assaels and DLC. The Town has no monitoring or enforcement on the easement. Board member Baker expressed that the conservation easement does not override the Zoning Ordinance, this was confirmed by Chairman Roeller. Chairman Roeller said that the conservation easement is critical in the request for the variance because of the uniqueness and special conditions of the hardship, not being able to subdivide the property, not being able to add on to the existing building. Although this is a private agreement between two entities it does enter into the ZBA review. Attorney Cantor emphasized that this is a private agreement and cannot override the Zoning Ordinance. Its relevance to this application is one of the considerations that the Zoning Board is asked to look at, which is, are there other practical alternatives that the applicant could use to achieve their goals short of asking for the variance. The easement has been presented to help explain why, although it is a private agreement, that it is subordinate to the Town Zoning, that the easement supports the applicant's ability to explain to the board that there is no practical alternative to do what the applicant wants to do. The easement limits the number of structures, limits the size of the main house so it cannot be added onto, the easement prohibits further subdivision. There is more than enough land that adheres to the Town Zoning Code, but the applicant cannot subdivide to create a separate lot or several separate lots. DLC was asked to review the application for two reasons, one because under the terms of the easement they have to on a private level and approve it, but on a Planning and Zoning Board level the applicant wanted to make sure that DLC would let the boards know since conservation easements are an important tool to keep the Town of Washington rural and open and is consistent with the goals of the easement. Chairman Roeller expressed that DLC takes a hard look at all of the site related issues and minimize the impacts on the character of the neighborhood, viewsheds, etc. Attorney Cantor expressed that he thinks the basic test is a balance of what the applicant would like, and if there are corresponding detrimental, negative, impacts to the neighborhood, if there are, to balance them. Attorney Cantor said they believe that there are no negative impacts in terms of visual, noise, traffic,

Page 4

drainage, density, are all consistent with that part of the Town of Washington. When the board reviews their judgement of the balance, they believe and hope, that the board will agree, that there are no negatives caused by this proposal to the neighborhood. Board member Baker questioned if anything changed from the State, County, Town, level after the property was

purchased to create this problem, or were these in place, and questioned if the Town Zoning Law has not change in this respect, was the easement was in place when the property was purchased?

Attorney Cantor and Chairman Roeller acknowledged in the affirmative. Attorney Cantor said that the easement was given to Dutchess Land Conservancy by a prior owner. Chairman Roeller said that the original easement was quite a bit different than the current rendition, the previous owner had similar type plans but never followed through.

Chairman Roeller explained that in reviewing the application and the easement, he picked up a few discrepancies. Earlier, the primary residence discrepancy was mentioned, the other is that the conditions of the easement, as he reads, is that the accessory structures including the tenant guest house, studios, swimming pool, tennis court, tennis shed, machine sheds, that the intent of the easement was in aggregate, they should not exceed 3,000 sq. ft. The application shows 6,000 sq. ft., this discrepancy should be cleared up for both boards because when reviewing the minimum variance required, it is needed. In reviewing the easement, adding up the numbers, and referring back to the easement, discrepancies were found in both the primary residence and what is allowed under the easement relative to the accessory structures within the building envelope as described. The terms of the easement list the permitted structures, but in Chairman Roeller's reading, it is clear that in aggregate, the square footage should be 3,000 sq. ft. The application says 6,000 sq. ft. Mr. DiBiase confirmed 6,000 sq. ft in the application is correct. Attorney Cantor asserted that this is a private agreement with DLC and that the people who own the land, and the people who had the benefit of the easement, have the ability on a private level, subject to the Zoning Ordinance, to agree. The DLC letter shows that they have concluded that this layout, with this number of buildings and square footage, is in their judgement, as a holder of the easement, consistent with the easement purpose. Attorney Cantor asserted that there is no discrepancy. Chairman Roeller expressed that he understands that argument, however, when reviewing a reasonable request for a variance for minimum standards, the proposal is showing twice the square footage as what is in the terms of the agreement. Chairman Roeller said that he understands that the agreement is a private agreement, however, he feels that it would be negligent if this discrepancy was unresolved before the board proceeds. Attorney Cantor said that on this particular point, he does not think that there is anything to resolve. There is approximately 6,000 sq. ft. structures, one of which is outside of the envelope, the holder of the easement has reviewed this and concluded that because they believe that this proposal meets the intent, that its fine with them. Board member Baker remarked that DLC is waiving a more detailed assessment of what or what cannot be done. Mr. DiBiase interjected that Chairman Roeller has misinterpreted the easement. The easement is confusing, but it has been concluded as 6,000 total square feet. Attorney Cantor said that for the purposes of the board's judgement of weighing what the applicant would like, vs the issue of, is this in some way detrimental to the neighborhood, this does not matter.

Page 5

Chairman Roeller said that the principal criteria in granting variances is the impact on the neighborhood and district. There are other standards that come into play, dealing with hardships, and minimum standards. Attorney Cantor interjected that he does not feel there is any issue of hardship in the issue of area variances. Chairman Roeller questioned if the condition is self-created? Attorney Cantor said that is one of the factors that the statute identifies and also says

that it is not a dispositive or controlling factor and is one of the factors to look at. Chairman Roeller said that there are four or five factors that the board looks at in weighing the merits of the variance application. If approved, is the variance going to impact not only the impact of the neighborhood, but also any impacts on the environmental issues, or health, safety, and welfare of the district that the applicant is in?

There is no doubt that if this property was not under easement, that they have more than enough property and would meet the standards to either subdivide, have the accessory units on individual lots, and add on to the existing building. Insofar as the criteria of weighing other special circumstances and conditions, there clearly are. The question that needs to be asked with these special circumstances is, is the board depriving the applicant of the reasonable use of his property. This is a subjective thing, is it reasonable to expect an applicant to basically create, add on, two more accessory residential units, create nine additional bedrooms for staff, guests, family, and what is the reasonable use of that?

Attorney Cantor remarked that he has also presented to the board an analysis of the densities in terms of land and building area of the surrounding properties, to show that even if the board granted the variance, and if the planning board approved this, that this is still well within the prevailing percentage of building area to land area. Chairman Roeller said he believes the percentage is 68%. Attorney Cantor said it is a very strong issue in terms of the character of the community.

Chairman Roeller expressed that he agrees that the potential impacts on the character of the area is the paramount issue, putting aside easements, etc. and next requested Mark Graminski to give an overview of the viewsheds, neighboring parcels, aerial photo, analysis. Chairman Roeller remarked that the Town of Washington is populated with estates and similar types of properties; most estates are on generous pieces of land. One of the assumptions that Chairman Roeller makes in looking at the character of the Town is how many other estates have this type of compound effect. Thinking back, there are the Altamont, Migdale, Kovener, estates that have large pieces of land with many buildings that spread out, in some cases individual lots, or in other cases are separated by lots of space. This proposal is different, is concentrated, per restrictions in the easement. Board member Baker interjected that he recently read in the newspaper about a large piece of property with multiple houses; he pulled the property card and discovered that the properties are fifty, sixty, seventy years of age, were developed long before the Zoning. There are properties that have multiple dwellings/structures.

Mark Graminski, P.E., presented reproduced/enlarged color photos taken of the Viewshed Plan and vicinity map which was an attachment to the application packet submitted to the board. Mr. Graminski explained that in the analysis he attempted to define the neighborhood.

Page 6

Mr. Graminski pointed out the location of the Assael residence and expressed that he utilized the computer GIS Parcel Explorer, looked through property cards for each one of the properties, looked at the various structures, and tried to establish a meaningful relationship for comparison of density development in the neighborhood. He chose to look at the size of the parcel and the number of square feet building area that were developed on those various parcels. He compared that ratio of building square footage to parcel area, compared what was being

proposed with the Assael property, and found that it was very much in conformance with the character of neighborhood, in many cases less than the type of building density that was exhibited on the surrounding parcels. From this information Mr. Graminski was able to state on this application that the Assael property is in conformance with what the character of the neighborhood currently is.

Mr. Graminski did an immediate viewshed analysis for the property. Photo locations 1 through 10 were displayed, taken along Route 44 and Millbrook School Road to see what the visibility impact would be on this particular site. Photos numbered 1 and 2 are where the proposed caretakers cottage will be located; photo no. 1 is looking to the west, photo no. 2 is looking to the east towards Route 44. Photo no. 3 shows the hedgerow. Photo no. 5 on Millbrook School Road is looking to the south and shows very small glimpses of the existing residence. Most of the residence is screened by existing vegetation which will remain and/or be further supplemented on the project site. Board member Baker remarked that the main structure is two and one-half stories and can barely be seen, the other buildings are smaller. Attorney Cantor expressed that one of the benefits of creating this courtyard-like area is that the main building screens the smaller buildings looking from Millbrook School Road in the southerly direction. If this had been spread out more, many more questions of that visual impact would be created.

Chairman Roeller referred to the second lot being forty acres and questioned if this is under easement? Attorney Cantor said it is under a separate easement. Chairman Roeller remarked about the arrangement of the lot and questioned its potential. Mr. DiBiase expressed that nothing can be allowed on that parcel by the DLC, there is a non heated summer cottage on the parcel. Attorney Cantor remarked that this lot provides substantial screening; because it is under easement it will continue to provide that screening.

Board member Audia referred to cul-de-sac's needing separate egress vs ingress and questioned if this pertains to this application? Chairman Roeller said that this was a concern expressed during the proposed zoning revision discussions with proliferation for estates that have long driveways. Board member Baker remarked that there are developments that have a public road with driveways off of the public road; this property has a private driveway. Chairman Roeller referred to the Planning Board reviewing the access, circulation, turning radius, and if fire fighting equipment can access the property. Mark Graminski remarked that working on recent applications in the Town where it was along a private road; the fire department was part of the process with the Planning Board in reviewing the site.

Board member Parisi questioned what other proposals were considered, such as attaching all three buildings together? Mr. Graminski said this is not allowed under the easement.

Page 7

Attorney Cantor expressed that he is not the one to speak in terms of architectural site planning issues, but is missing the importance of board member Parisi's question in terms of the issue of impact on the community, and questioned what difference does this make? Board member Parisi responded that this would not require a variance from the zoning board. Mr. DiBiase interjected that he wants the board to understand that the easement does not allow the existing building to be added onto. Board member Baker interjected that the board has difficulty, problems, with accessory housing. The more the board varies the rules, the harder it is when other applicants

come before the board and want variances granted, perhaps they are not as grand a proposal as this application. There are exceptions in the Code such as temporary housing, older parents situations, all sorts of reasons; this application request does not fit in the exceptions of the Code for bending the rule on accessory housing. Board member Baker remarked that he was thinking similarly to board member Parisi; there is one house in particular where the person built a second house next to the existing house and connected them. From board member Baker's standpoint this would solve the problem of approving two extra significant housing units, and multiple bedroom units, on a property. Every time that rule is varied, it becomes harder to explain to the next applicant why it cannot be done. If there was a way of negotiating with Dutchess Land Conservancy to connect the buildings in some way, say, perhaps with a tunnel-breeze-way and questions if this could be determined as a single building from the board's standpoint. Attorney Cantor asserted that the Assaels's are proposing three units that have three distinctly different proposed uses; one is a guest house, one is a caretakers cottage which they want to be at a particular point, and staff housing over the garage. This application is not for three guest houses, or three caretakers cottages. Board member Baker asserted that the Code does not make that distinction. The caretakers cottage is acceptable and in a good location, but there is a problem with two additional accessory residences. Attorney Cantor expressed that he is not following why the board has a problem, so far, there is a literal absence of any indication of any negative impact to the community. Board member Baker expressed that the board has rules. Attorney Cantor remarked that one of the rules is that there are variances; the rule for a variance is, is this going to harm the neighborhood.

Chairman Roeller commented that there are many parcels in the Town of Washington that have similar easements with Dutchess Land Conservancy or other agencies. Chairman Roeller expressed that he can foresee future applications for similar things; the rule has been varied once. He understands the uniqueness of this application, variance granted or not granted, the applicant will probably proceed with building the caretakers residence as the permitted accessory residential unit on the property. One of the questions being asked by board members Parisi and Baker is why not re-approach Dutchess Land Conservancy to see if they would modify, amend, the existing easement to allow expansion of the existing structure with wings that would accommodate a guest house on one side and a staff residence/garage on the other side, or however an architect would design. Attorney Cantor responded that because in the absence of any showing that this proposed arrangement is creating some negative impact, there is no reason for this. Board member Baker interjected that in the board's terms it does create a negative impact because it becomes harder for the board to tell the next person who has a lot of good reasons, special conditions, whether it is an easement, or something else, that one accessory residence per property is a meaningless part of the Code. Attorney Cantor is asking the

Page 8

board to do this. Board member Baker expressed that there is no hardship. Attorney Cantor asserted that hardship is not a relevant standard. Board member Baker expressed that the applicant bought property with an easement which has been varied to help them under a set of zoning codes which were in effect at the time. Now, the applicant is before the board saying this doesn't work for us. Attorney Cantor said that the applicant is saying we have a set of changes that we want to make to the property, and under the system of rules they are coming before the board who has the authority to vary the Code. The applicant has produced a clear-cut package of information to say that in all of the relevant characteristics, view, noise, traffic, drainage,

characteristics of the community, what they want to do is consistent with this community. Respectfully, in the absence of any other factual input, that should be conclusive. The standard isn't whether some other property owner will say, "gee look what the Assael's did, I would like to do that too." If some other property owner chooses to make such an application, the board would review that other application in the same way, what the board sees, hears, is the traffic okay, is the drainage okay. Board member Baker asserted, then that section of the Code, which says, one accessory apartment, has no meaning if someone can show that building that accessory apartment will have no impact on the character of the neighborhood, on safety, or on traffic. Attorney Cantor is saying that section of the Code has no standing. Attorney Cantor asserted that he is not saying that at all. What board member Baker is saying is to take the variance function out of the Code. Board member Baker asserted that attorney Cantor is taking the variance out by saying that the board has no choice. Attorney Cantor remarked that the board has a lot of choices, they are a discretionary board, but in carrying out the board's choice is a set of rules that the statute says to follow in carrying out the board's discretion. This application is within the board's discretion, if it wasn't within the board's discretion, it would be a yes or no with the building inspector or zoning administrator. The area of the board's discretion has a set of standards to be utilized in implementing the discretion. Attorney Cantor said he doesn't think that if somebody else might make such an application this is one of those standards. Even if noone else would make such an application, if the applicant was creating visual blight, or were giving something that was clearly out of the character of the neighborhood, or flood the other persons property, or any one of dozens examples, the correct answer under the set of rules would be, "Mr. Cantor, Mr. and Mrs. Assael, no."

Attorney Cantor expressed that he understands what the board is saying and will certainly communicate that to Mr. and Mrs. Assael and see what they have to say. Mr. Cantor expressed that the board has made their point very clear and he is not missing it. Board member Baker remarked that it would be very helpful if the building was constructed as a single building with wings or additions; this would remove the need for a variance. Attorney Cantor said that the language of the Code isn't expressed in buildings. Mr. DiBiase remarked that there is a section in the Code that does allow additional accessory residential structures if it was built in 1982 by planning board special permit. Conceivably you could have other parcels with more than one accessory residential unit if they are buildings that were built in 1982 and could have a very similar design. Attorney Cantor said that the Code section does not deal with the number of buildings; it deals with the language which is, "only one accessory residential housing unit per lot is permitted." Attorney Cantor expressed that the language/Code uses the word "unit" which he does not think is a defined term. Hypothetically, if you had one building that had

Page 9

a guest cottage in it, and staff housing in it, that may be two units anyway, even if it is in one building. Board member Baker commented, based on that, the staff quarters could be considered several units. As stated, since it is not dealing with the number of buildings, it is units. There are two, two bedroom units with bath, and it seems that there are more units being created than just an accessory unit or apartment. The Code does not make a distinction between guest rooms and staff rooms. It becomes a unit that persons can live in separately from the house. Board member Baker remarked that he thinks that there are actually more than the two that are being applied for. Mr. DiBiase interjected that the New York State Building Code defines a unit as living in a place for eating, you need to have one kitchen in one unit.

Discussion followed between board members in attending the Planning Board workshop on July 31st since this application is focused on a coordinated review. Chairman Roeller recommended that board members attend the workshop so some sort of agreement can be attained.

Chairman Roeller addressed attorney Cantor and expressed that he has heard the board's concerns about this application potentially setting a precedent. Chairman Roeller said that he understands that they are individual applications, and the discussion used in weighing the individual applications and circumstances that might come into play.

An unidentified woman was in attendance for the meeting, taking notes, and was asked by Chairman Roeller if she would like to comment or ask questions from the board or the applicant's attorney. She had no questions or comments.

Chairman Roeller stated that he encourages a conversation with Dutchess Land Conservancy, the architect, and the owners, to see if it is feasible to design this so that 1) DLC would revise the easement to allow expansion of the principal residence 2) there is an architectural way to have the intended separation, as one unit. Chairman Roeller remarked that the caretakers cottage is appropriate for the site and will have minimal impacts associated with that.

Attorney Cantor related that he has made notes of both of the board's points, and will discuss with Dutchess Land Conservancy and Mr. and Mrs. Assael, the board's concerns. Attorney Cantor remarked that he understands/respects the underlying intent behind them is to try and find some appropriate path to protect the community. Attorney Cantor expressed that he will look into the two issues raised by the board, and hopes that between now and the next meeting some thought will be given to the points he made. Chairman Roeller remarked that the ZBA will work in conjunction with the Planning Board. Attorney Cantor related that typically, applicants do not appear at the Planning Board workshop, and it is his impression that the Planning Board prefers to have their own time to "roll up their sleeves and speak frankly with one another." Attorney Cantor suggested that it would be helpful if in the board's judgement, to have a three-way conversation between the applicants, and representatives of Zoning Board, and Planning Board, if so, to speak with Chairman Beaumont and ask if he shares this suggestion. Attorney Cantor expressed that he would be happy to appear at the workshop.

Page 10

Board member Audia expressed that he can recall several large estates having done exactly what the board has proposed; adding on to the existing structure that have been the scope of this particular layout, and also having conservation easements. Board member Parisi referred to the Gunther property before the board about one year ago, the new owners requested to add several accessory buildings having a conservation easement.

Attorney Cantor asked the board to consider closing the public hearing. Chairman Roeller expressed from his prospective, he would like to continue the public hearing, adjourn the meeting/public hearing to August 21st to wait for input from the Planning Board and perhaps alternatives to the plans submitted by the applicant. **A motion to adjourn the meeting/Assael**

public hearing to August 21, 2007 was made by board member Parisi, and seconded by board member Marshall. All ayes.

A motion to adjourn the meeting was made by board member Marshall, and seconded by board member Parisi. The meeting was adjourned at 8:55 P.M.

Respectfully submitted,

Nikki Caul, secretary