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Eastchester Town Clerk

TRANSCRIPT OF
TOWN OF EASTCHESTER
SPECIAL PLANNING BOARD MEETING
JULY 20, 2021

HELD AT:

Eastchester Town Hall
10 Main Road
Eastchester, New York 10709
Building and Planning Department

BOARD MEMBERS IN ATTENDANCE:

CHAIRMAN JAMES BONANNO
PHILIP NEMECEK, MEMBER
MARK CUNNINGHAM, MEMBER
LOUIS CAMPANA, MEMBER

EASTCHESTER EMPLOYEES IN ATTENDANCE:
MARGARET UHLE, DIRECTOR OF PLANNING
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY
JAY KING, BUILDING INSPECTOR

Dina M. Morgan, Reporter
25 Colonial Road
Bronxville, New York 10708
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1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21
2 comments that Mr. Nemecek made. Thank you. So
3 I'll make a motion to approve the meeting
4 minutes of April 22, 2021.
5 MR. NEMECEK: Second.
6 THE CHAIRMAN: All in favor.
7 (AYE)
8 THE CHAIRMAN: This is a special
9 meeting, we don't normally meet in July, but we
10 are here to discuss three applications. There
11 is a new application, 21-23 -- and this is the
12 order we're going in too -- first is 21-23, 4
13 Hanfling Road. The other two are applications
14 we've seen already. The second is 21-22, 750
15 White Plains Road, and the third we're going to
16 talk about again is 19-42, 5 Ray Place.
17 So if the applicant for the first
18 application would come forward.
19 MR. BADALY: Good evening. My name is
20 Shahin Badaly representing Badaly Engineering
21 at 2 Wilson Place, Mt. Vernon, New York 10550.
22 We have before you an application for
23 a horizontal enlargement of an existing one
24 family house at 4 Hanfling Road. Hanfling Road
25 is located roughly a block or two from where

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1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21
2
3 THE CHAIRMAN: Good evening. This is
4 the town of Eastchester Planning Board meeting
5 of Tuesday, July 20th, 2021. If everyone would
6 rise for the Pledge of Allegiance, please.
7 (Pledge of Allegiance.)
8 THE CHAIRMAN: So I'll do the roll.
9 Mr. Phil Nemecek.
10 MR. NEMECEK: Present.
11 THE CHAIRMAN: Jim Bonanno is here.
12 Mark Cunningham.
13 MR. CUNNINGHAM: Present.
14 THE CHAIRMAN: Louis Campana.
15 MR. CAMPANA: Present.
16 THE CHAIRMAN: Great. So I would like
17 to just welcome everyone to the in-person
18 meeting. It was nice to see everyone on Zoom,
19 but it's great to see everyone in person. We
20 get to see each other and have real
21 interaction. Thank you for your patience
22 during the Zoom that we all participated in,
23 and now we are all experts at it.
24 So I think we have one meeting minutes
25 that we can approve while we're here, and that
is April 22nd. We've read them, there are

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2 New Wilmot, Old Wilmot and Wilmot Road all meet
3 up. It's a 9,598 square foot lot in an R-7.5
4 zone. The addition we're proposing is -- I'm
5 sorry, I said horizontal, I meant a vertical
6 enlargement. We're strictly going up. The
7 addition is roughly 800 square feet, but the
8 footprint of the house does remain the same.
9 In addition to that, we're also
10 proposing a new deck in the rear that's roughly
11 6 by 23 feet. It has an 11 foot staircase
12 coming down to the rear yard. All of that is
13 within the zoning envelope. We're also
14 reconstructing an 8 foot platform at the front
15 door, as well as expanding the existing
16 driveway within that existing curb cut. So
17 we're not modifying the curb cut, but we are
18 modifying the width of the driveway. Perhaps
19 the angle of the curb cut does need to be
20 modified, but we are seeking a Highway permit
21 for that as well.
22 Finally, in terms of the site work, we
23 also have an illegal staircase on the left-hand
24 side of the site there, which also has a door,
25 so we're removing that stair and we're

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<p style="text-align: right;">5</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 replacing that door with a window and wall and</p> <p>3 bringing the house into compliance there as</p> <p>4 well.</p> <p>5 I'm just going to flip the page.</p> <p>6 MR. CUNNINGHAM: Bring the mic with</p> <p>7 you.</p> <p>8 MR. BADALY: So I just brought up the</p> <p>9 elevation here, and I'm just going to run</p> <p>10 through a couple of the changes we're doing and</p> <p>11 the materials we're proposing.</p> <p>12 So on the main part of the house,</p> <p>13 we're doing a two story addition and providing</p> <p>14 a gable roof with a portico above the entryway.</p> <p>15 That has an arched window that gives off into a</p> <p>16 two story atrium at the foyer and into the</p> <p>17 staircase. The existing house has shutters,</p> <p>18 but we're replacing all of the shutters,</p> <p>19 siding, windows, roofing, so all of that is</p> <p>20 actually going to be new.</p> <p>21 We provided specifications for all of</p> <p>22 the materials as well. We're also providing an</p> <p>23 expansion above the garage and above the</p> <p>24 existing breezeway. So the door that we see on</p> <p>25 the left-hand side of the front door, which is</p> <p style="text-align: right;">DINA M. MORGAN, REPORTER</p>	<p style="text-align: right;">7</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 proposed work and mention that we also have a</p> <p>3 small balcony coming off on the second floor.</p> <p>4 I'm just going to flip the page.</p> <p>5 Generally speaking, there's not too much going</p> <p>6 on with the back, but we do have the deck on</p> <p>7 the right side, which gives off to that</p> <p>8 breezeway that we were mentioning and the</p> <p>9 balcony above it, which gives off onto the</p> <p>10 second floor master bedroom. That new</p> <p>11 staircase which comes down on the side, that's</p> <p>12 to meet the zoning envelope versus coming down</p> <p>13 straight.</p> <p>14 With that, if you have any questions,</p> <p>15 please.</p> <p>16 THE CHAIRMAN: What's the material on</p> <p>17 the back; same as the front?</p> <p>18 MR. BADALY: I'm sorry.</p> <p>19 THE CHAIRMAN: Materials on the rear</p> <p>20 elevation.</p> <p>21 MR. BADALY: The entire siding is to</p> <p>22 match.</p> <p>23 THE CHAIRMAN: Same siding.</p> <p>24 MR. BADALY: Correct. The shakes</p> <p>25 would only be on the front of that garage</p> <p style="text-align: right;">DINA M. MORGAN, REPORTER</p>
<p style="text-align: right;">6</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 between the garage and the front door, leads to</p> <p>3 a breezeway between the garage space and the</p> <p>4 main house. So that's why those windows all</p> <p>5 don't have grills in the breezeway, as well as</p> <p>6 around the basement. That provides that flow</p> <p>7 through feel.</p> <p>8 Above the garage door, we also</p> <p>9 provided a standing seam copper roof, as well</p> <p>10 as vinyl shakes in that area versus the</p> <p>11 horizontal siding on the right side of the</p> <p>12 house.</p> <p>13 The front door is a bronze entry door</p> <p>14 with quite a bit of detail in it. That matches</p> <p>15 the garage door color as well.</p> <p>16 We also have some trim work around the</p> <p>17 windows and some keystone above the windows.</p> <p>18 Most of the trim is provided as AZEK.</p> <p>19 We've also shown some lighting. So we</p> <p>20 have lights on either side of the front door,</p> <p>21 as well as lights on either side of the garage</p> <p>22 door. On the rear side of the building, we</p> <p>23 also have some lighting both at the breezeway</p> <p>24 door, the patio door, the balcony and the deck.</p> <p>25 I'm just going to backtrack on the</p> <p style="text-align: right;">DINA M. MORGAN, REPORTER</p>	<p style="text-align: right;">8</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 second floor.</p> <p>3 THE CHAIRMAN: Okay.</p> <p>4 MR. BADALY: I'll just mention also,</p> <p>5 that all of the windows are being replaced.</p> <p>6 Those are Andersen 400's. They'll be with a</p> <p>7 black frame. The siding will be white. Most</p> <p>8 of the trim work will be white.</p> <p>9 THE CHAIRMAN: Okay.</p> <p>10 MR. NEMECEK: Are there any plantings</p> <p>11 contemplated with the renovations?</p> <p>12 MR. BADALY: Absolutely. We didn't</p> <p>13 submit a landscaping plan as part of the scope</p> <p>14 of building permit, but significant landscaping</p> <p>15 is going to take place in order to make the</p> <p>16 front yard much more appealing.</p> <p>17 MR. NEMECEK: I see in the before and</p> <p>18 after photos, there are nice trees on both</p> <p>19 sides.</p> <p>20 MR. BADALY: The house is not in great</p> <p>21 shape right now.</p> <p>22 MR. NEMECEK: I understand.</p> <p>23 THE CHAIRMAN: So the landscape plan</p> <p>24 will be prepared by a landscape architect and</p> <p>25 it will be --</p> <p style="text-align: right;">DINA M. MORGAN, REPORTER</p>

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2 MR. BADALY: Correct. It's beyond my
3 capabilities to do.

4 MS. UHLE: That's not a condition of
5 approval. I think he was just asking if they
6 were planning to plant. That wouldn't be
7 submitted to our department. Just for new
8 construction.

9 MR. NEMECEK: I think I saw the
10 numbers, but it's approximately an 800 square
11 foot additional living space?

12 MR. BADALY: Correct. So the existing
13 floor area is roughly 2150 and the proposed is
14 28 something. It's just under 2900 square feet
15 proposed.

16 MR. NEMECEK: Okay.

17 THE CHAIRMAN: As far as the
18 additional impervious, there's CULTECs going
19 where; at the rear of the property?

20 MR. BADALY: Correct. So it's
21 proposed right under the driveway because the
22 expansion is for the driveway, and then the
23 rear yard -- I don't know if I printed the
24 storm water plan with me.

25 THE CHAIRMAN: If you have it, we'll
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2 look at it. If not, we get the idea. Perfect.

3 MR. BADALY: So we provided a
4 subsurface chamber, CULTEC, and that's to the
5 side of the driveway.

6 THE CHAIRMAN: Okay. I don't have any
7 other comments. Gentlemen?

8 MR. CAMPANA: No comments here.

9 THE CHAIRMAN: Hang on. We're just
10 going to do a public hearing, so don't go far.
11 I make a motion to open the public hearing on
12 this application, 21-23, 4 Hanfling Road.

13 MR. NEMECEK: Second.

14 THE CHAIRMAN: All in favor.
15 (AYE)

16 MR. NEMECEK: For old time sake, can
17 we have Rob recognize anybody in the audience?

18 THE CHAIRMAN: Let's raise your hand
19 if you have a comment. Use the hand feature.

20 Since there's no comments, I make a
21 motion to close the public hearing on
22 Application 21-23, 4 Hanfling Road.

23 MR. NEMECEK: Second.

24 THE CHAIRMAN: All in favor.
25 (AYE)

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1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21
2 THE CHAIRMAN: Not to prolong this,
3 I'll make a motion to approve Application
4 21-23, 4 Hanfling.

5 MR. NEMECEK: Second.

6 THE CHAIRMAN: All in favor.
7 (AYE)

8 THE CHAIRMAN: Great. Very handsome.
9 Thank you.

10 MR. CUNNINGHAM: Good luck. It looks
11 very nice.

12 MR. NEMECEK: It's a real big
13 improvement.

14 THE CHAIRMAN: Good job.

15 MR. BADALY: Thank you.

16 THE CHAIRMAN: The next application,
17 21-22, 750 White Plains Road, known as Lord &
18 Taylor.

19 MR. DAVIS: Good evening. I'm Bob
20 Davis, attorney for the applicant. Nice to see
21 you in person tonight.

22 As you know, we've met with you twice
23 before, on May 27th and June 24th, and we've
24 also had two meetings with the ARB on June 3rd
25 and 29th. As we mentioned last time, we've

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2 been working extensively with Ms. Uhle and Dr.
3 Grealy on various site improvements and parking
4 and traffic related matters, a big landscaping
5 plan. We're very gratified that having
6 reviewed all the work we proposed to update and
7 beautify the site, the ARB has given your board
8 a positive unconditional recommendation by the
9 unanimous vote of the three members who were
10 present at its last special meeting.

11 We're very appreciative of your
12 holding this special meeting tonight, and we're
13 hoping you'll find it appropriate to conclude
14 the public hearing tonight and to rendering
15 your Negative Declaration under the SEQRA, and
16 finally, to consider granting us your approval.

17 With us tonight, as always, is our
18 project team: Jose Olmo Gonzalez, who is the
19 Senior Director of Real Estate Development for
20 Street Works Development; Diego Villareale of
21 JMC, our planning and engineering consultants;
22 Ron Hoina of Design Development, our project
23 architect; and of course John Canning of Kimley
24 Horn, our traffic engineers.

25 We made a full presentation to you of

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 2 all the modifications of the plan and the
 3 landscaping plan at your last meeting, so
 4 tonight we're not going to offer any further
 5 formal presentation, but we'll just be happy to
 6 answer any questions from whatever member of
 7 our project team is relevant to those.

8 MR. NEMECEK: I watched some of the
 9 ARB meeting, and I heard your comments and do
 10 not disagree with them. It seems like you got
 11 a very positive reception. Can you just
 12 summarize for this board what concerns the
 13 ARB -- what comments the ARB had, if any, on
 14 your proposed plantings. I know there were
 15 light fixtures that are being gussied up and
 16 alike. If you could just give a really brief
 17 summary of what the ARB had to say. Thank you.

18 MR. VILLAREALE: Certainly. Good
 19 evening. For the record, Diego Villareale with
 20 JMC, the planning and engineering and landscape
 21 architecture consultant for the applicant.

22 The ARB meeting, as Mr. Davis had
 23 indicated, it was just a good summary of the
 24 overall improvements that were being done to
 25 the site. The landscaping around the entire

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 2 perimeter of the building is going to be
 3 replaced. There's improvements to the
 4 landscaping along the frontages of the property
 5 on New Wilmot Road, as well as White Plains
 6 Road. All of the sidewalks are being replaced
 7 in and around the perimeter of the building.
 8 Again, working with Ms. Uhle, all of this was
 9 prepared, documented on a site plan and it's
 10 committed to being done all at once as opposed
 11 to in any types of phases or anything like
 12 that. It's all going to be done at one time.

13 The board just really had some general
 14 questions about some of the specific planting
 15 areas and the types of plantings that were
 16 being installed. We did have a landscaping
 17 plan that was there. There was a comment
 18 regarding the inclusion of maybe some landscape
 19 and some up lighting near the main entrances of
 20 building just to compliment some of the
 21 proposed landscaping that's going in, which is
 22 certainly something we could include. The
 23 light fixtures themselves in and around the
 24 parking lot are all being rehabilitated and
 25 reparged. The bottoms are all painted yellow

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 2 right now, the curb is painted yellow, all that
 3 is being removed. You're going to have new
 4 reparged light pole bases and the light pole
 5 fixtures themselves are being painted black.

6 So everything is just going to get
 7 really a nice facelift, and I think, quite
 8 frankly, the ARB was appreciative of the
 9 modifications that were proposed.

10 MS. UHLE: Phil, could I just mention
 11 that what was presented to you on June 24th,
 12 was exactly what was presented to the ARB. It
 13 wasn't that they made any additional changes.

14 MR. NEMECEK: Yes, it was a quick turn
 15 over between the two meetings.

16 MS. UHLE: It was. It was five days.

17 MR. VILLAREALE: Included in the plan
 18 was also a number of comments from Dr. Grealy.
 19 There were some concerns regarding traffic and
 20 the curbed islands, so all of that was
 21 incorporated into that plan that was presented
 22 to this board as well.

23 MR. NEMECEK: Okay. Great.

24 THE CHAIRMAN: Thank you. Which, I
 25 guess, brings us to the traffic because I think

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 2 most of the issues that still are going to be
 3 followed are the traffic impacts and parking.
 4 So, Dr. Grealy, I mean, do you want -- we've
 5 read your memo and we have it in front of us,
 6 could you just summarize what you think are the
 7 important issues.

8 MR. GREALY: Good evening. Philip
 9 Grealy, Colliers Engineering & Design.

10 We had reviewed the traffic study that
 11 addressed the entire site, the redevelopment,
 12 various land uses. We found that to be
 13 complete, addressed all the issues.

14 We had made several recommendations on
 15 traffic control at the existing driveways to
 16 improve the control. The site plan reflects
 17 those changes.

18 One of the other aspects that we had
 19 recommended, that is hopefully to be
 20 incorporated here, is what we refer to as a
 21 post occupancy study. So in the traffic study,
 22 there were certain -- the traffic and parking
 23 study, actually -- there were certain items
 24 that were identified, such as signal timing
 25 changes, adjustments. In this case, we would

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2 like to have a post occupancy study to ensure
3 that the projections were in line, and that
4 everything is working appropriately.

5 In terms of the other areas of the
6 building and the occupancies, the applicant's
7 engineer had made certain assumptions regarding
8 the uses, and we are fine with those. If there
9 are any variations, then they would have to
10 come back to the planner and make a
11 determination, together with me, whether or not
12 it's substantial that it would have to go back
13 to the Planning Board.

14 At this point, there are also certain
15 improvements, for example, at the access
16 driveways that will be coordinated with the
17 applicant, and we've also requested that we
18 have what we call a work zone traffic control
19 plan. So, for example, when modifications to
20 the curbed islands are being done at the
21 driveways, to make sure that traffic is being
22 maintained properly during that. All standard
23 items.

24 At this point, we have reviewed it, we
25 are happy with all the responses, the revisions

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2 they made to the plans. If there are any
3 questions you have, I can answer them.

4 MR. NEMECEK: Yes. I'm looking at
5 your July 9th report, and you mention the post
6 occupancy study. I believe the recommendation
7 here is that it can be completed within six
8 months of the full occupancy of the first
9 90,000 square feet. If I recall correctly, the
10 total square footage here is about 210,000 or
11 so?

12 MR. GREALLY: 210, 220.

13 MR. NEMECEK: Yes. So how full is the
14 occupancy study going to be based on the
15 occupancy of half of the available space?

16 MR. GREALLY: The purpose of that study
17 after the initial occupancy, the intended use
18 here in that first phase is a little bit
19 unknown. A lot of the other uses that were
20 included in the study, medical, you know,
21 offices, it's pretty consistently, you know,
22 from one site to the next you know what the
23 generation is, what the parking is, you've seen
24 it before. So we wanted to the opportunity to
25 see how this is functioning and, most

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2 importantly, relative to the Route 22 side
3 where is going to be the main entrance to this
4 first phase, there's a limited amount of
5 parking there, so we wanted to just make sure
6 how everything is functioning for that
7 90,000 square feet, including the operation of
8 the driveway at Route 22, and there's some
9 upgrades that they're going to be doing at the
10 New Wilmot Road driveway. We also have some
11 ability to have them -- so, for example, for
12 the remainder of the space, if it deviates from
13 what was studied in terms of parking or traffic
14 generation, they would have to come back and
15 have us review that to make sure that it's
16 within the perimeters.

17 Normally, you would do the
18 post-occupancy when it's all occupied. We want
19 that looked at after this first 90,000 square
20 feet because we'll have a better understanding
21 of what needs to be done. Of course, there's
22 some signal timing changes that they will be
23 responsible to do. That will be ongoing thing,
24 not just at the 90,000, it will be at the full
25 occupancy.

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2 THE CHAIRMAN: Thank you.

3 MR. NEMECEK: If I could ask the
4 applicant, whoever wants to speak for the
5 applicant, I'm assuming you want to get the
6 building up to full occupancy as quickly as
7 possible and that you're not going to hold at
8 90,000 for six months or a year to avoid doing
9 a more detailed study. Has there been any
10 indication, to this point, that you may be
11 filling more than 90,000 square feet of space
12 prior to that six month period?

13 MS. UHLE: Before the applicant
14 responds, could I just clarify something too?

15 MR. NEMECEK: Sure.

16 MS. UHLE: We changed the language in
17 the Conditions of Approval that we provided to
18 you. It no longer refers to full occupancy of
19 the 90,000 square feet, and I think partially
20 because for this particular use we don't know
21 how to define full occupancy. So we just gave
22 it a timeframe after the issuance of the
23 Certificate of Compliance. So after that -- I
24 forgot what it was -- three to six months, then
25 that study would be required. At that time,

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<p style="text-align: right;">21</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 they could still potentially have additional</p> <p>3 tenants, and they would be included in that</p> <p>4 study. I didn't mean to answer you, but I</p> <p>5 wanted to clarify it was a timeframe now based</p> <p>6 on the CC, not based on the full occupancy.</p> <p>7 MR. NEMECEK: You've actually answered</p> <p>8 the question that I was indirectly getting out,</p> <p>9 but I also want an answer to the question in</p> <p>10 terms of how is it going in terms of --</p> <p>11 MR. DAVIS: To answer Mr. Nemecek's</p> <p>12 question, the owners are actively negotiating</p> <p>13 with tenants. As we speak, there are a number</p> <p>14 of serious negotiations going on. So, yes, we</p> <p>15 are trying to tenant it as soon as possible,</p> <p>16 and we do expect probably to at least have one</p> <p>17 other major tenant for a major portion of the</p> <p>18 space within that six month period.</p> <p>19 MR. NEMECEK: Okay. Then we already</p> <p>20 have Conditions of Approval, should we approve,</p> <p>21 that would address including that --</p> <p>22 MS. UHLE: Exactly. That's what it</p> <p>23 says.</p> <p>24 MR. NEMECEK: Okay. Perfect.</p> <p>25 THE CHAIRMAN: Thank you, Dr. Grealy,</p> <p style="text-align: center;">DINA M. MORGAN, REPORTER</p>	<p style="text-align: right;">23</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 21-22, 750 White Plains Road.</p> <p>3 MR. NEMECEK: Second.</p> <p>4 THE CHAIRMAN: All in favor.</p> <p>5 (AYE)</p> <p>6 MS. UHLE: Just maybe for the record</p> <p>7 I'll just mention that you received copies of</p> <p>8 the proposed Conditions of Approval, and the</p> <p>9 applicant received a copy as well. They're</p> <p>10 also available in the back in case any</p> <p>11 residents are curious about them. I don't know</p> <p>12 if you need to discuss any of them, otherwise</p> <p>13 you were provided with them earlier today.</p> <p>14 THE CHAIRMAN: I'm not going to read</p> <p>15 them. It's quite voluminous. They are</p> <p>16 thorough.</p> <p>17 MR. CUNNINGHAM: Well done, though, I</p> <p>18 must say. I read them at lunchtime today.</p> <p>19 Very nice reading. Very thorough. God job,</p> <p>20 Margaret.</p> <p>21 THE CHAIRMAN: Thank you. I scanned</p> <p>22 it on the train. I'm sure Phil read it. Thank</p> <p>23 you, Phil.</p> <p>24 MR. CUNNINGHAM: To make sure</p> <p>25 everything spelled right.</p> <p style="text-align: center;">DINA M. MORGAN, REPORTER</p>
<p style="text-align: right;">22</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 by the way. I think most of the conditions</p> <p>3 that were approved that we have in front of us</p> <p>4 pertain to items that you brought up and you</p> <p>5 discussed and there's other ones here. I think</p> <p>6 for the most part, it's pretty clear as what</p> <p>7 has to be followed up on. You certainly</p> <p>8 provided all of that guidance. Thank you.</p> <p>9 That's it. This is still an open</p> <p>10 public hearing, so we're going to see if there</p> <p>11 are any members of the public to comment on</p> <p>12 this application.</p> <p>13 MS. UHLE: You should make a motion to</p> <p>14 reopen the public hearing.</p> <p>15 THE CHAIRMAN: Have to reopen?</p> <p>16 MS. UHLE: Yes.</p> <p>17 THE CHAIRMAN: Okay. So then I make a</p> <p>18 motion to reopen the public hearing on</p> <p>19 Application 21-22, 750 White Plains Road.</p> <p>20 MR. NEMECEK: Second.</p> <p>21 THE CHAIRMAN: All in favor.</p> <p>22 (AYE)</p> <p>23 (No comments.)</p> <p>24 THE CHAIRMAN: Then I make a motion to</p> <p>25 re-close the public hearing on Application</p> <p style="text-align: center;">DINA M. MORGAN, REPORTER</p>	<p style="text-align: right;">24</p> <p>1 EASTCHESTER PLANNING BOARD MEETING - 7/20/21</p> <p>2 MR. NEMECEK: Obviously not carefully</p> <p>3 enough, right?</p> <p>4 THE CHAIRMAN: So we're done.</p> <p>5 MS. UHLE: You want to adopt a Neg</p> <p>6 Dec.</p> <p>7 THE CHAIRMAN: I got it right here. I</p> <p>8 make a motion to adopt a Negative Declaration</p> <p>9 for Application 21-22, 750 White Plains Road.</p> <p>10 MR. NEMECEK: Second.</p> <p>11 THE CHAIRMAN: All in favor.</p> <p>12 (AYE)</p> <p>13 THE CHAIRMAN: I make a motion to</p> <p>14 approve Application 21-22, 750 White Plains</p> <p>15 Road, subject to the conditions provided to the</p> <p>16 board and discussed at the meeting.</p> <p>17 MR. NEMECEK: Second.</p> <p>18 THE CHAIRMAN: All in favor.</p> <p>19 (AYE)</p> <p>20 THE CHAIRMAN: Thank you for the</p> <p>21 design. It came out very nice. Thank you.</p> <p>22 The next and final application is</p> <p>23 19-42, 5 Ray Place.</p> <p>24 MR. BOHLANDER: All set?</p> <p>25 THE CHAIRMAN: Yes.</p> <p style="text-align: center;">DINA M. MORGAN, REPORTER</p>

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2 MR. BOHLANDER: Good evening, Chairman
3 and members of the Planning Board. My name is
4 Rick Bohlander. I'm with JMC. I'm the civil
5 engineer on the 5 Ray Place project.

6 Just a quick, brief summary of the 5
7 Ray Place project. We're proposing a
8 multi-family residence of 21 units. At our
9 last meeting, there were several comments,
10 concerns that were brought up in regards to
11 construction staging, the safety plan,
12 excavation operations, and the sanitary sewer
13 mitigation. We have since provided several
14 documents to address some of those comments.
15 One of the documents was the drawing C200, the
16 JMC Erosion and Sedimentation Control Plan,
17 which had a comment on it from Mr. Grealy that
18 I'll touch on towards the end of my
19 presentation; a proposal from Vanguard, who
20 will do the vibration monitoring during the
21 demolition and the rock removal. We also
22 provide the Soil Boring report from Carlin &
23 Simpson just describing the height of rock
24 throughout the site. Also, a rock removal
25 sketch from Brooker Engineering; a scope of

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2 work from Cortese Construction, who will be the
3 contractor on the project; and three work zone
4 traffic control plans provided from JMC.

5 Just to touch briefly on the submitted
6 documents -- I'm not sure if you had a chance
7 to review them -- the scope of work provided
8 from Cortese Construction, it just broke
9 down -- one of the concerns at last month's
10 meeting was the staging of the project and the
11 phasing of the project, so in that document he
12 kind of just breaks down the phasing, which is
13 broken down into four phases.

14 The first phase obviously will be the
15 installation of all the sediment erosion
16 control measures, along with some of the demo,
17 which is mostly consisting of the removal of
18 asphalt, curbing and whatnot.

19 The next phase will contain the rock
20 removal, that's the excavation of subgrade and
21 the installation of the storm water detention
22 system, along with the whole storm water system
23 as a whole; inlets, piping and whatnot.

24 The next phase is excavation for the
25 building footings, and then the pouring of the

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2 footings and the walls. After the walls and
3 the footings have cured, the next step is
4 backfilling the subgrade.

5 The final phase of that portion of the
6 project is the off site work, the work along
7 Ray Place. The trenching for the sanitary and
8 the water and installation of the sanitary and
9 the water.

10 The next document, just to briefly
11 summarize, is the proposal from Vanguard.
12 There were concerns about just the structural
13 integrity of surrounding buildings during the
14 vibration during the rock removal, and they've
15 kind of outlined how they will provide
16 vibration monitoring. They will also provide
17 any pre-construction evaluation of the
18 surrounding buildings, the surrounding area
19 prior to the start of construction to ensure
20 everyone's safety. The vibration monitors will
21 be set up at the site in between the site and
22 the 24 Enclave property. The readings from
23 this vibration monitoring will be provided to
24 the owner, to the contractor in real time on a
25 website. If something should happen, they will

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2 know immediately.

3 One of the main concerns -- I kind of
4 wanted to talk on this last just because
5 there's been so much concern about this -- is
6 the sanitary sure mitigation. We have talked a
7 whole lot about this and done a whole lot of
8 research on this, and we've come to an
9 agreement between the Town and the client to
10 provide -- I'll kind of just summarize what we
11 came up with. Obviously, the manhole of
12 concern is at the intersection of Woodruff and
13 Scarsdale Avenue. I think we're all very
14 familiar with the problems that go on there.
15 So it's a three part mitigation solution --
16 really, four parts.

17 The first part, we would install a
18 manhole at the -- there's a structure, you
19 know, the structure that surcharges at the
20 intersection of Woodruff and Scarsdale Avenue,
21 that flows towards the intersection of
22 Scarsdale and Harney Road. It's about a 500
23 foot run of pipe without a structure in
24 between, so we're proposing to install a dog
25 house, a manhole in that area just to assist in

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 2 the cleaning of that pipe if it needs it. It
 3 will also be videoed -- this is the second part
 4 of the mitigation -- it will be videoed to look
 5 for just the condition of the pipe, if there
 6 are any certain places to repair that pipe.

7 The third portion will be, going
 8 upstream on Harney from the manhole that I was
 9 just speaking about at the intersection --
 10 there used to be an intersection and then the
 11 roads were realigned -- at Harney and Brook
 12 Street, the manhole, it splits with a pipe
 13 going down Woodruff and then a pipe going down
 14 Harney, we are proposing to repair, clean out
 15 and do whatever we have to do to make sure that
 16 manhole is operating to its full function.

17 Kind of the last part of the
 18 mitigation, as I said, you know, we will video
 19 the sanitary sewer line running from the
 20 manhole at the Woodruff and Scarsdale Avenue
 21 intersection to the Harney and Scarsdale Avenue
 22 intersection, and obviously repair any problems
 23 with that up to a certain amount of money.
 24 There could be nothing wrong with the pipe,
 25 there could be a lot wrong with the pipe, but

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 2 we have capped it at a certain amount of money.

3 There was one specific comment from
 4 Mr. Grealy, the traffic consulting engineer,
 5 about on C200, the Erosion and Sediment Control
 6 Plan, the limited disturbance is also shown as
 7 a construction fence, which, if you're familiar
 8 with the drawing, it's out on Ray Place. So
 9 Mr. Grealy asked us to put together the work
 10 zone traffic control plans just to address the
 11 fact that we will be doing work within the road
 12 and how we would handle, you know, shifting
 13 lanes and handle traffic and handle
 14 pedestrians. I provided those three drawings.
 15 I kind of split it up into three phases: The
 16 trenching for the sanitary sewer line, which is
 17 on I guess that would be the west side of the
 18 Ray Place; and the water line, which is on the
 19 east side of Ray Place; and then just kind of
 20 the work that's confined to our site.

21 That was really it for comments and
 22 concerns. I would be happy to answer any
 23 questions. There was a lot provided to you
 24 guys, so I anticipate questions. Fire away.

25 THE CHAIRMAN: I guess we have to ask
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 2 questions then. Do utilities go in during
 3 excavation; is that the first thing that goes
 4 in?

5 MR. BOHLANDER: So that would be
 6 towards the end of the excavation. That would
 7 be in the, I'll call it, third phase where we
 8 would -- the excavation for the building
 9 footings would take place. The footings would
 10 be poured, the walls would be poured, and then
 11 the next phase would be the construction along
 12 Ray Place, the installation of the sanitary and
 13 the water.

14 THE CHAIRMAN: Before they start the
 15 super structure, the utilities go in? They
 16 don't occur at the same time?

17 MR. BOHLANDER: I couldn't hear you.

18 THE CHAIRMAN: Before they start
 19 construction of the super structure after the
 20 foundations are done, the utilities go in, and
 21 once that's completed, then they start erecting
 22 the building?

23 MR. BOHLANDER: The utilities to the
 24 building would be subbed out so they could
 25 install along Ray Place, and then connect into

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 2 those subs that they already installed on side.

3 THE CHAIRMAN: As far as the
 4 utilities, there's one on each side of the
 5 street I think you said; water on one and --

6 MR. BOHLANDER: Yes. I might be
 7 mixing them up, but I know it's essentially on
 8 one side of the street. Not extreme but just
 9 enough where we could safely shut down a side
 10 of the street and obvious have flagmen out
 11 there to control traffic coming from the
 12 DeCicco's parking lot coming down, and then
 13 from Brook Street coming up.

14 THE CHAIRMAN: So at the end of every
 15 day, the plates will be installed and --

16 MR. BOHLANDER: The plates will be
 17 installed, all the cones would be taken off,
 18 and it would be two way when the work day is
 19 done.

20 THE CHAIRMAN: End of the day. Okay.

21 MR. CAMPANA: Utilities would not be
 22 installed simultaneously, it would be one after
 23 the other?

24 MR. BOHLANDER: We thought it would be
 25 safer, we thought it would make a lot more

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2 sense doing it separately just to limit the
3 amount of disturbance and just safety.

4 THE CHAIRMAN: As you said, there's
5 two issues; the I & I issues, which I think
6 we're going to ask Mr. Cermele to comment on;
7 and then also the rock. Then as part of the
8 traffic issues, I imagine it's all been
9 resolved, but I think we'll ask Mr. Grealy if
10 he has any further comments when you're done.
11 Mark.

12 MR. CUNNINGHAM: The remedial work for
13 the sewer system, that has nothing -- well, I
14 mean, not that it doesn't have anything to do
15 with the building, but that's part of
16 conditions -- will that work be done first in
17 phase one?

18 MR. BOHLANDER: So that still needs to
19 be finalized, and we'll coordinate with the
20 Town, but we anticipate that being prior to the
21 C of O, the issuance of the C of O.

22 MR. CUNNINGHAM: Okay. So we have a
23 building up and if that doesn't work, then we
24 have a problem.

25 MS. UHLE: Again, it's not that it
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2 doesn't work. They are clearly providing
3 mitigation measures, so they will have to have
4 installed those mitigation measures. Those
5 mitigation measures will provide mitigation.
6 So they will work to the extent that, you know,
7 a manhole will be repaired and replaced, a
8 manhole will be installed.

9 MR. CUNNINGHAM: I understand. My
10 choice of words probably wasn't right, that it
11 wouldn't work. I understand that it works now,
12 there's issues with it. This remedial work
13 will make that system better. I just think
14 from my perspective is that with that system
15 fixed and remedial work done, you have all that
16 time to see that this is actually an
17 improvement to the system, as opposed to when
18 the building is up seeing that it hasn't
19 corrected it or helped.

20 MR. NEMECEK: It's not a condition of
21 approval. The Town has negotiated the
22 mitigation efforts; right?

23 MS. UHLE: Yes, because --

24 MR. CUNNINGHAM: It's a condition of
25 what I read today --

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2 MS. UHLE: Prior to us issuing the
3 Certificate of Compliance, they have to
4 implement these mitigation measures. This is
5 going to be a horrible analogy, but it's kind
6 of like installing a stop sign, and then you're
7 saying, well, is the stop sign working or not.
8 They have to provide certain mitigation
9 measures. I don't think that there's a data
10 point that we're looking at to see whether it's
11 successful or not. There is no real threshold.
12 It's successful to the point that now we have a
13 new manhole so the Highway Department can more
14 easily clean out an existing sewer pipe. It's
15 successful to the point that a broken manhole
16 will be repaired and replaced. It's successful
17 to the point that we'll identify whether a
18 segment of pipe has any problems. It's
19 successful to point that if it does, those will
20 be repaired. There is no threshold or data
21 point where you can make a direct correlation
22 between what they're building and improvements
23 that you see. This sewer shed, or whatever you
24 call it, is very big. There are so many other
25 properties feeding into that line on Scarsdale

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2 Avenue, that it may take many different
3 mitigation measures from the Town, from
4 different applicants, etcetera, to address that
5 issue. This applicant is basically providing
6 mitigation relative to the flows that he's
7 adding to the system and that's it.

8 MR. NEMECEK: The Town's interests
9 have been capably represented in the process.

10 MS. UHLE: Absolutely.

11 MR. NEMECEK: I know we talked about
12 there were other potential measures that could
13 be taken, but that were cost prohibitive.

14 MS. UHLE: Not feasible.

15 MR. NEMECEK: Not proper to try to
16 foist on one applicant or this particular
17 applicant. The thought is, the Town was
18 capably represented in the negotiations -- I
19 don't know if that's the right word -- the
20 discussions that surrounded identifying an
21 appropriate mitigation effort, that obviously
22 the Town believes is going to help. I know Joe
23 wouldn't be picking something out that is just
24 make work.

25 MR. CUNNINGHAM: That was my point.

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 2 MR. NEMECEK: The point is if it
 3 doesn't work, it isn't because the applicant
 4 didn't do what they promised to do, it's just
 5 that somehow, despite all the best efforts --
 6 and, who knows, there are many other
 7 circumstances in play -- nobody is guaranteeing
 8 a hundred percent success here.

9 MS. UHLE: Again, I'm just really
 10 concerned about how this keeps getting
 11 expressed. The applicant is not responsible to
 12 solve that problem down at that one particular
 13 point. We're hoping that these mitigation
 14 measures will make a difference and they will
 15 alleviate it. It may not solve it. It's a
 16 step. It would be wonderful if it solved it,
 17 but maybe it takes five other developers to
 18 contribute, or the Town, before you actually
 19 notice success. The way we're defining success
 20 is scaring me.

21 THE CHAIRMAN: It's not a quantitative
 22 thing, it's a qualitative thing. Our
 23 consultant will pay attention, make sure he
 24 agrees with those, as long his concerns are
 25 expressed. I imagine he will be involved.

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2 MS. UHLE: Just, by the way, to
 3 backtrack a little, one of the conditions of
 4 approval for Lord & Taylor -- right now they're
 5 actually decreasing flows into that system, but
 6 one of the conditions of approval is as new
 7 tenants come in, they are going to have to
 8 address how that affects the sanitary sewer
 9 flows. Once they increase the flows over
 10 existing conditions, they too will have to
 11 provide some kind of mitigation measure. That
 12 building is within the same system. They will
 13 be required to do something very similar, and
 14 maybe then you'll see some tangible --

15 THE CHAIRMAN: Okay. Not to belabor
 16 the point. Thank you. Got it. I don't have
 17 any other questions. I know way too much about
 18 I & I.

19 Dr. Greal, is there anything you
 20 would like to offer on the traffic?

21 MR. GREALY: Philip Greal, Colliers
 22 Engineering again.

23 Mr. Chairman, members of the board, we
 24 have reviewed this application from the start,
 25 okay. One of our concerns was how during

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 2 construction traffic would be maintained. We
 3 didn't want any back ups. We wanted access to
 4 all the properties. So the plans that were
 5 prepared, what we call work zone traffic
 6 control plans, sometimes they're not prepared
 7 until the applicant is ready to go to
 8 construction. They've actually prepared those,
 9 showed how they're going to maintain traffic
 10 flow, keep access to the different properties
 11 on Ray Place, such as The Enclave. It's very
 12 specific that they have to maintain full access
 13 to each of the properties while they're doing
 14 the work. Their progression is logical in
 15 terms of working on one side of the road and
 16 then transferring it. So they've provided the
 17 information.

18 There are a whole series of other
 19 recommendations in terms of conditions of
 20 approval that we have on resurfacing the road,
 21 upgrades to the sidewalk, etcetera, but we've
 22 talked about those in the past.

23 Our last remaining issue was to just
 24 see how during construction they plan to
 25 coordinate, and they've provided those

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 2 documents. So I think we're set with that now.

3 THE CHAIRMAN: I asked Margaret the
 4 same sort of question earlier today or
 5 yesterday about what goes on during
 6 construction and when all these things are
 7 addressed. She mentioned that during the
 8 construction kick off, a lot of these issues
 9 are addressed when all the municipal agencies
 10 are there. You're part of that process also?

11 MR. GREALY: Yes. In this case, we
 12 have the County involved because Brook Street
 13 is a County Road. I will be involved in that
 14 process, as well as the Police Department and
 15 the emergency services. So we usually have a
 16 kick off meeting with the contractor because
 17 the engineer designs the plans, but we want to
 18 make sure the contractor is aware of
 19 everything, and also to inform the public. So
 20 advance notice of when the work is going to
 21 start when the sequencing is there. I think
 22 it's important in terms of communications for
 23 everybody going forward.

24 THE CHAIRMAN: I appreciate that.
 25 Thank you.

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 2 MR. GREALLY: Thank you.
 3 THE CHAIRMAN: Mr. Cermele, I know the
 4 applicant gave a lot of comments about the I &
 5 I. Certainly, if you could give your nod, or I
 6 think we know enough about it I'm sure. You do
 7 not have try and quantify what's going on, just
 8 give us you are assurances about the I & I that
 9 everyone's best interest is being represented.

10 MR. CERMELE: This mitigation was an
 11 effort not only by the applicant, but our
 12 office, Margaret, the Highway Department,
 13 collective kind of search and find and look for
 14 avenues that would make sense in this
 15 particular instance. As was said repeatedly,
 16 this was not meant to be a cure all. It's just
 17 to offset the potential impact from this
 18 development. I think with the combination that
 19 we have and what's being proposed, we'll
 20 certainly see a benefit.

21 Just to add to Mr. Bohlander's
 22 comments, the manhole in Harney Road --
 23 typically manholes in a sanitary system as you
 24 flow downstream, they combine flows and they
 25 continue on their way. This particular

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 2 manhole, the downstream flows are split.
 3 There's a primary discharge along Harney and a
 4 secondary route down toward Woodruff. In
 5 inspecting that manhole, the invert -- over the
 6 years, it's an old system -- it's in need of a
 7 fix. So the plan is to make those repairs to
 8 that invert, reestablish the primary flow onto
 9 Harney, which would take that flow that is
 10 currently going towards Woodruff out of that
 11 section of the sewer. It ultimately all
 12 reconvenes and converges back at Harney before
 13 it goes under parkway. We'll short circuit
 14 that longer route that it's taking right now to
 15 Woodruff.

16 The clean out manhole on Scarsdale
 17 Avenue, again, as was said, those manholes
 18 today are about 500 feet apart, which doesn't
 19 meet current standards. The length alone makes
 20 it difficult to main, but, to make matters
 21 worse, the manhole at Harney is approximately
 22 40 feet deep. Just to physically get something
 23 in there to maintain and scope that section of
 24 the line from the downstream manhole up is next
 25 to impossible. Installing that interim manhole

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 2 will certainly help. The Town will be able to
 3 maintain and inspect that line.

4 Should anything come of the sewer
 5 inspection on that section of the line on
 6 Scarsdale Avenue, we'll work with the
 7 applicant, his engineers to determine what the
 8 best course of action would be to the repair to
 9 that line, obviously with the cap of the not to
 10 exceed cost in the Resolution, keeping that in
 11 mind.

12 THE CHAIRMAN: Thank you. You're the
 13 expert, so if you're okay with it, I'm not okay
 14 with it. I'm not going to question anything.
 15 I'm an expert in something else. So thank you.
 16 So then I guess --

17 MS. UHLE: Can I just say a couple of
 18 other things?

19 THE CHAIRMAN: Sure.

20 MS. UHLE: I know there are some
 21 people from the neighborhood here, and I think
 22 they saw that the draft Conditions of Approval
 23 are available for anyone that's here. If they
 24 want to review them, they're on the back table.

25 One thing I want to point out just to

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 2 the board that is a little more unusual for us
 3 only because we have not had this particular
 4 circumstance very often, we are retaining a
 5 structural engineer with regard to the rock
 6 removal activities. The applicant did provide
 7 you sort of the time frame with regard those.
 8 I think the rock removal activities are only
 9 within at two to three week time frame overall.
 10 We are going to them take all those documents
 11 that they submitted and sort of come up with
 12 more streamlined rock removal protocols, and I
 13 have a structural engineer that will be
 14 reviewing those. That will specifically
 15 identify the properties that need to have a
 16 pre-construction survey or pre-chipping survey,
 17 if that's what they're doing, where the
 18 vibration sensors will go and that kind of
 19 stuff. Even though the applicant has proposed
 20 that already, it's sort of like developing the
 21 maintenance and protection and traffic plan and
 22 consolidating everything into one plan that
 23 then will be removed by our structural
 24 engineer. So I just wanted to --

25 THE CHAIRMAN: That's a good point.

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2 That was the other issue. As you pointed out,
3 we have our expert that is going to be
4 following that also closely, so it's not going
5 to go unnoticed.

6 MR. NEMECEK: By the way, I think it's
7 worth repeating what Mr. Cermele said, that he
8 didn't just make this decision, he had input
9 from the Planning Department, from the Highway
10 Department, from various stakeholders in the
11 Town who are all out to represent the best
12 interest of the Town.

13 THE CHAIRMAN: Right. He's just the
14 orchestra conductor. No other comments. So
15 then I will -- I have to reopen the public
16 hearing. So I make a motion to reopen the
17 public hearing on Application 19-42, 5 Ray
18 Place.

19 MR. NEMECEK: Second.

20 THE CHAIRMAN: All in favor.

21 (AYE)

22 THE CHAIRMAN: So before we start, the
23 issues we're discussing that are in front of us
24 right now are the ones that we've already put
25 forth. There's the rock removal and a limited

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2 number of I & I type things. As far as the
3 massing of the building, I think we hit on
4 that. So if we could confine out comments to
5 the issues that are in front of us today, that
6 would be best.

7 That being said, public. Sure, come
8 on down.

9 MR. BRODNICK: Good evening, Mr.
10 Chairman, members of the board. My name is
11 Andrew Brodnick. I'm an attorney, and I
12 represent The Enclave in a Article 78
13 proceeding that was brought with respect to the
14 variances that were issued by the Zoning Board
15 of Appeals. That was a close vote, three to
16 two. Of course I believe there is a lot of
17 merit to the Article 78 that we brought.

18 In response, the applicant brought
19 what I think can fairly be characterized as a
20 procedural objection, a Motion to Dismiss,
21 which is currently pending before the court.
22 It will take months for that to be decided. If
23 the motion to dismiss is decided, at that point
24 the applicant will then put in an answer and
25 then the court will rule.

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2 The reason I'm going through that
3 procedural background is a concern that --
4 certainly those are not issues that are before
5 this board. This board is going to continue
6 reviewing the application, and ultimately
7 deciding whether or not to issue site plan
8 approval. If and when site plan approval is
9 granted, it could create sort of a conflict
10 where the applicant has the ability to go
11 ahead, get a building permit, start building
12 the building, but we could still have the issue
13 of the propriety of the variances hanging over
14 everybody's head, so-to-speak. So I'm
15 suggesting that perhaps when the board -- if
16 the board does grant site plan approval,
17 perhaps it could be conditioned upon the
18 resolution of the Article 78 proceeding. If
19 that doesn't happen, there could be additional
20 litigation. It just seems to me to be the
21 logical thing that the board would consider
22 doing. It's possible the applicant may decide
23 for itself to hold off on applying for a
24 building permit and waiting for that to be
25 resolved, but I just thought that was an issue

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2 that should be brought to the attention of this
3 board.

4 THE CHAIRMAN: Great. Thank you. I
5 wasn't aware of that, but it's certainly
6 helpful to know. I think, like you said, the
7 applicant can make their own decision if they
8 want to proceed

9 MR. BRODNICK: They could. If they
10 do, then we have a whole mess where whether
11 move for injunctions, this, that or the other
12 thing. Again, I don't want to argue the merits
13 of the Article 78. It was a close vote, it was
14 three to two. There were some procedural
15 issues that were raised, as Margaret well
16 knows. I just think it would be certainly
17 advantageous, and I think just good process, if
18 that issue could be addressed if and when site
19 plan approval is granted. It could be,
20 perhaps, conditional upon the resolution of the
21 litigation, or perhaps, again, I could work
22 something out with the applicant. I'm friendly
23 with Dan Tartaglia, who is the attorney, maybe
24 I'll reach out to him in the next week or so.
25 I just wanted to bring that issue to the

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2 attention of the board.

3 MR. NEMECEK: If I could ask, in
4 connection with the Article 78 proceeding, has
5 there been any motion for temporary relief,
6 temporary restraining order, preliminary
7 injunctive relief, that would stop the process;
8 has there been any such application?

9 MR. BRODNICK: There has not been, no.
10 No.

11 MR. NEMECEK: It sounds like you're
12 asking us to kind of stop it.

13 MR. BRODNICK: Oh, no.

14 MR. NEMECEK: You may have the ability
15 to do so in front of the court.

16 MR. BRODNICK: I would have that
17 opportunity. If and when site plan approval is
18 obtained, I could, if there isn't other
19 arrangements made, make such an application
20 before the court.

21 MR. NEMECEK: Okay. Got it.

22 MS. UHLE: Also, just so that you
23 know, we do have land use council that has been
24 working on the Article 78 proceedings.

25 MR. NEMECEK: I thought so.

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2 THE CHAIRMAN: Great. Thank you.

3 MR. BRODNICK: Thank you.

4 MR. FASCIGLIONE: Good evening. My
5 name is Michael Fasciglione, 43 Woodruff
6 Avenue. 57 year resident at Woodruff Avenue,
7 lifelong resident of the town of Eastchester,
8 and a member of the North Eastchester Civic
9 Association. May I say, it's a pleasure to
10 finally be able to have a meeting face-to-face
11 after all those many months of Zoom meetings,
12 which, at best, were difficult to control and
13 have many restrictions as we saw it.

14 Basically, I'm here to just bring up
15 two nagging issues with reference to the Ray
16 Place project that never have been truly
17 answered to our satisfaction over the
18 12 months, basically, of Zoom meetings that
19 we've had.

20 The first item makes reference to
21 basically a question as to why the developer
22 has not been required to produce any financial
23 comparatives showing compliance with
24 Eastchester law number 5, which makes reference
25 to basically Zoning Board use of variances. I

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2 will quickly quote what I'm trying to refer to:
3 No such variance shall be granted by the Zoning
4 Board without a showing by the applicant that
5 applicable zoning regulations and restrictions
6 have caused unnecessary hardship.

7 MR. TUDISCO: I'm going to stop you
8 there because you are quoting something that is
9 potentially an item pending before the Zoning
10 Board, which this is not, and you know that.

11 Also, you are misquoting the law because that
12 is the standard for a use variance. They
13 requested areas variances. There is no issue
14 of financial need or hardship that is
15 applicable for an area variance. That has been
16 explained on a number of occasions.

17 MR. FASCIGLIONE: I see. Pardon me
18 ignorance, could you describe the difference
19 between a use and an area variance? A use
20 variance is where you wish to change the use of
21 a property. If you are seeking the change of
22 the usage of the property, your argument would
23 be or the burden that you would have to
24 overcome is to show that you can't use it for
25 its designated purpose because of undue

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2 financial hardship.

3 With respect to an area variance, if
4 your project is at variance with the law, you
5 are asking for special permission based upon
6 certain circumstances in terms of setbacks, in
7 terms of other things. Financials are not
8 relevant whatsoever. That issue has been
9 brought up time and time again by members of
10 the public, and each time we explained it. I'm
11 in a difficult position here because there is a
12 viewing audience that is watching at home, and
13 I want to make sure that the law is quoted
14 accurately or is applied accurately.

15 MR. FASCIGLIONE: I understand. My
16 final question concerning that -- pardon the
17 tutorial -- where does the area variance appear
18 in the zoning laws; does it appear as part of
19 that Section 10 because I did not see it?

20 MR. TUDISCO: Margaret, do you have
21 the zoning law here?

22 MS. UHLE: Yes.

23 MR. FASCIGLIONE: I make reference to
24 Section 10 of Local Law 5.

25 MS. UHLE: It's Section 10.B.2. It's

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2 just Section 10.B.2. Section 10.B.1 talks
3 about the unnecessary hardship which relates to
4 a use variance. 10.B.2 states the requirements
5 for area variances.

6 MR. FASCIGLIONE: I was going to bring
7 up 10.B.1 as part of my defense here, the fact
8 that it says: The applicant cannot realize a
9 reasonable return provided that lack of return
10 is substantial, as demonstrated by competent
11 financial evidence.

12 MS. UHLE: Mr. Fasciglione --

13 MR. FASCIGLIONE: The point I'm trying
14 to make, if it says -- again, I didn't write
15 the law --

16 MS. UHLE: Again, as Mr. Tudisco
17 indicated to you -- two different issues. The
18 Zoning Board has already made their
19 determination. As you know, residents filed an
20 Article 78 based on that determination. That
21 was not one of the arguments that was made in
22 the Article 78 because, again, there are two
23 very distinct different types of applications
24 for variances.

25 A use variance, because it deals with

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2 actually changing a permitted use within a
3 district, has a very higher threshold for
4 approval, and it has a number of different
5 thresholds, and it's very difficult to obtain
6 because of that. One of those is, an applicant
7 has to show that there's true financial
8 hardship without them getting any kind of
9 reasonable return on their property.

10 Area variances there is not a very
11 large threshold. They're much easier to
12 obtain. Those deal with the lot and bulk
13 requirements and just convincing a board that
14 there won't be an undesirable change in the
15 character of the neighborhood, that it's not
16 terribly substantial. There are different
17 tests for area variances, and that's what Mr.
18 Tudisco was telling you.

19 The use variances absolutely don't
20 apply to this particular application. Even if
21 they did, that was before the Zoning Board, and
22 there's been an Article 78 or a lawsuit filed
23 against the Zoning Board for their
24 determination. So if the Zoning Board
25 misunderstood something or did something

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2 inappropriately, that would be addressed during
3 the Article 78, but not before this board.

4 MR. FASCIGLIONE: I see. Thank you
5 very much. I'm going to go back and reread
6 that law again. It's part of my evening
7 reading.

8 I'm just going to quickly touch on a
9 second portion of what I feel is important.
10 The fact that during the entire procedure, this
11 10 to 12 month procedure, Planning Board,
12 Zoning Board, and back here at Planning, there
13 has never been a time when the developer has
14 been asked to supply some sort of an alternate
15 proposal to this project, that would sort of
16 more closely comply with the Town Laws. In
17 fact, at one of the meetings on November 20th,
18 I made a very non-professional proposal of what
19 I thought would be a very good compromise,
20 which would enable a fifth floor to be taken
21 off, a reconfiguration of the parking structure
22 so as to be able to add additional apartments
23 there, and maybe have some sort of a
24 compromise. To be very blunt with you, it was
25 just shot down. It was ignored. The ZBA

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2 didn't think it had any merit, and they just
3 sort of covered it over. The point I'm trying
4 to make is that we, as residents of the North
5 Eastchester area, have been diligent in trying
6 to fight what we consider over construction in
7 this area. There have been a couple of other
8 projects that have come through, which we've
9 been able to slow down because we thought they
10 were just not in keeping with the quality of
11 our town. We feel that this building --
12 although it's a beautiful building -- is just
13 an over construction, and it's going to cause a
14 number of different problems.

15 What we're asking you to do is, please
16 don't make a decision this evening. Look
17 carefully at this. I see that there are a
18 number of proposals that are being made, which,
19 in a sense, are based upon moving forward. I'm
20 just concerned with shovels going in the ground
21 before this has been fully resolved. So I ask
22 you to please give this another look and try to
23 see whether we can come to a more agreeable
24 solution. Thank you.

25 MR. TUDISCO: I just also want to

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 2 point out in conclusion of your comments, one
 3 of the reasons that the applicants are here
 4 tonight is because there were a number of
 5 issues that were raised -- appropriate
 6 issues -- by the public. There were questions
 7 about, you know, what is the schedule of
 8 construction going to be, where are the trucks
 9 going to be lined up, what about the rock
 10 removal, are they going to blast or are they
 11 going to excavate the rock, how are we going to
 12 know when that is going to happen. In response
 13 to that, the board requested that they come in
 14 with this information; if you are going
 15 forward, how do you propose to do it. This is
 16 in direct response to concerns raised by the
 17 community.

18 MR. FASCIGLIONE: I understand. As
 19 long as that "if" is written in capital
 20 letters, I'm a very happy.

21 MR. NEMECEK: If I could comment on a
 22 couple of things. One, this is a 2019
 23 application. I know this was before us. I
 24 think we were the first board to see this in
 25 2019.

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2 MR. FASCIGLIONE: That's correct.

3 MR. NEMECEK: It hasn't been 10 or
 4 12 months. It's been well over a year and a
 5 half. Granted, we have had a lot of
 6 disruption. I think we made up all of the lost
 7 meetings from March and April of last year. So
 8 it has been before us, and it's been before the
 9 Zoning Board of Appeals.

10 The point that you raised about the
 11 proposal you had in November of last year, and
 12 I recall your proposal about reducing the size
 13 of it, that again -- and I don't want to steal
 14 Rob's thunder here -- if you look at the --
 15 because I pulled it up here -- the Zoning --
 16 the Town Zoning Law Section 10.B.2.c actually
 17 says that the Zoning Board of Appeals in
 18 granting area variances shall grant the minimum
 19 variance that it shall deem necessary and
 20 adequate. So that is a requirement of the
 21 Zoning Board, that they actually look to grant
 22 the least variance from the approved zoning law
 23 that they can, while maintaining the integrity
 24 of the application. I'm certain, although I
 25 didn't view all the Zoning Board meetings, but

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 2 the fact that we were told it was a three to
 3 two decision, certain strong arguments were
 4 made on both sides, and it was a close call.
 5 That decision was made by the Zoning Board of
 6 Appeals. It isn't our decision, although we
 7 certainly have considered all the issues that
 8 are appropriate for the Planning Board in our
 9 process. It's been a very fulsome process.

10 MR. FASCIGLIONE: I do understand
 11 that.

12 MR. NEMECEK: I know we heard from
 13 you, Mr. Fasciglione, many times, albeit not
 14 always in person like today. We appreciate it,
 15 and consider very carefully all the input from
 16 the Town.

17 MR. FASCIGLIONE: Being that the
 18 Planning Board is the lead board in this
 19 matter, that, to me, makes me understand
 20 although the Zoning Board made a decision, the
 21 final decision is yours to make. Again, we
 22 plead that hopefully we could come to some sort
 23 of a compromise that would make us all a little
 24 happier. Thank you again for your time.

25 THE CHAIRMAN: Thank you.

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2 MR. GALANEK: Good evening. Charlie
 3 Galanek, 21 Potter Road. Good evening, Mr.
 4 Chairman, and fellow members.

5 This evening, they were talking about
 6 four different items that we're talking about
 7 for the storage area. 1, was the manhole on
 8 woodruff and Scarsdale; and then number 2 was
 9 cleaning and videoing; and then number 3 was
 10 upstream from Harney Road to Brook Street; and
 11 number 4 was pretty close to number 2, it was
 12 videoing lines, but it didn't say cleaning two
 13 lines, it said video. Number 2 and number 4,
 14 pretty close.

15 On Scarsdale Avenue, the North
 16 Eastchester Association has been to the Town I
 17 would say probably 10, 15 years about a problem
 18 with that water when we have major storms. One
 19 of the fixes or Band-Aids that was applied, was
 20 to weld the sewer covers. I mean, you're the
 21 Zoning Board, is that --

22 MR. NEMECEK: We're not the Zoning
 23 Board.

24 MR. GALANEK: I'm sorry.

25 MR. TUDISCO: This is not the Zoning

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2 Board.

3 MR. GALANEK: Thank you. I appreciate
4 that. This is something that we have a fix.
5 It's not a fix, it's a Band-Aid. Now, the
6 reason why I bring that out, if that was a
7 problem for all these years, how come all of a
8 sudden now we have interest in trying to fix
9 it? Why now? I'll tell you why now. Because
10 this project wants to get a rubber stamp so it
11 could get approved. Now, if they go with the
12 beautiful technology of looking in there with
13 the videos, which is great, and they find that,
14 yes, they think -- and then what happens --
15 well, let's say they think it's going to work,
16 you know, it's pretty clean, maybe a little
17 cleaning around, doing a little tender loving
18 care and we'll get this sewerage to flow a
19 little bit better. Now, the board approves it
20 and says, okay, good to go, we're going to have
21 the water go out, no problems. What happens if
22 there is a problem? Is the board going to say
23 this is a condition, if this is a problem, the
24 taxpayers of Eastchester are not going to pay
25 for additional surge lines, larger surge lines?

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2 I don't hear that discussed. That's the
3 problem that I worry about. If these pipes,
4 the sewage pipes and storm pipes, aren't large
5 enough or in good enough condition to take on
6 an additional project like this, then who is
7 going to be responsible? The builder after
8 it's approved? Is it going to be in writing if
9 there is a problem? I haven't heard that
10 discussed. That is what I worry about as a
11 taxpayer, that this project is sailing along
12 when it was brought up numerous times about
13 sewage. It was, we're not talking about it
14 tonight, it's not one of the items. That was
15 mentioned. Go back to your videos and double
16 check. If it wasn't exactly mentioned that
17 night, you couldn't talk about it.

18 Now, do we have a retaining storage
19 for storm water in this project?

20 THE CHAIRMAN: The answer is yes. I
21 don't know if it's on the drawings, but our
22 consultant said yes. So yes, they do.

23 MR. GALANEK: I'm sorry, I cannot hear
24 you.

25 THE CHAIRMAN: Yes, they do.

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2 MS. UHLE: Yes. There's a proposed
3 storm water management plan that's been
4 reviewed and discussed and approved by our
5 engineering consultant.

6 MR. GALANEK: There is a holding --

7 THE CHAIRMAN: Where are you going
8 with this?

9 MR. GALANEK: -- A holding so that
10 once it's possible to release that water, it's
11 going to get released; is that my
12 understanding?

13 THE CHAIRMAN: So I don't know the
14 design of that system. Our consultants do, and
15 they've comment on it. So if there was a
16 problem with it, they would have made the
17 comment and presented it.

18 MR. NEMECEK: We've had this
19 discussion.

20 MS. UHLE: I was going to say, Mr.
21 Galanek --

22 MR. GALANEK: I'm old, a lot of my
23 parts don't work, can I ask you just to speak a
24 little bit louder.

25 MS. UHLE: Yes. You have brought this

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2 issue up at many meetings, and we have
3 responded to the question. But also, not only
4 are the plans available online for you to
5 review, I have personally e-mailed them to most
6 people that have requested them. So if you
7 have questions about the storm water management
8 plans, those have been available online for
9 review for months, as have Mr. Cermele's review
10 memos. This is a question that keeps coming
11 up. The storm water management plan was
12 prepared by the applicant. It was reviewed by
13 our engineering consultant, it was reviewed by
14 Planning Board members. The plans were
15 available online, comment memos are available
16 online. As a condition of approval, there are
17 some minor things that need to be kind of
18 finalized as conditions of approval, so I'm not
19 quite clear what you're getting at this
20 evening.

21 MR. GALANEK: First, to answer your
22 statement, and very respectfully, Margaret, I
23 had asked for those plans, the drawings, the
24 plans awhile back, and you said you were going
25 to send them. Never got them. Not a big deal.

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2 You could check.

3 MS. UHLE: They're also available
4 online by simply linking on.

5 MR. GALANEK: At that point, you
6 didn't say that.

7 MS. UHLE: I'm not sure whether you
8 sent me a follow-up e-mail. I just want to
9 make it very clear, and I think Mr. Sweeney and
10 anyone else in the North Eastchester Civic
11 Association or at The Enclave will tell you,
12 that I respond to each and every e-mail and
13 each and every request that I get. I might
14 have mentioned something at a meeting and I
15 apologize if I didn't follow up, but had you
16 sent me an e-mail, those drawings would have
17 been attached and sent to you immediately.

18 MR. GALANEK: Okay. I appreciate
19 that, but that was not mentioned what the
20 conditions were. You said you would send it.
21 Okay. I am not here to take my machine gun out
22 to make Swiss Cheese of you. I'm not here for
23 that. All I'm saying is, that's the thing.

24 Currently, we do have a system that's
25 going to hold back this water, it isn't

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2 changed; correct?

3 THE CHAIRMAN: No.

4 MR. GALANEK: No. Okay. So again, my
5 final statement is going back to the original,
6 if there is a problem and we need larger sewage
7 pipes, larger storm pipes to handle this
8 development, who is going to pay for it? Is
9 that going to be written in, that the developer
10 is responsible for it? Before you approve
11 anything, I would ask you to really think about
12 that.

13 THE CHAIRMAN: Thank you.

14 MR. GALANEK: Thank you.

15 THE CHAIRMAN: Any further comments?
16 Mr. Sweeney.

17 MR. SWEENEY: Good evening, Chairman
18 and members of the Planning Board, Margaret and
19 Richard. We've been at this for some time.

20 MR. NEMECEK: Mr. Sweeney, you're
21 supposed to identify yourself for the record
22 and your address.

23 MR. SWEENEY: Yes. It's Frank
24 Sweeney, 22 Lakeview Avenue. Not that I like
25 it, between all three of us here, we have about

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2 a 150 years worth of experience in living in
3 the town. So it's now a matter of where we're
4 at and what we need to get done.

5 From what we know now, which we didn't
6 know in the last meeting, is now the MTA is off
7 the record. They're not going to allow them to
8 go through the tunnel. They've also come back
9 and said there's a proposal that it could cost
10 \$750,000 to put a pipe down underneath the
11 track, which we still don't know is viable yet.
12 What we have is, the things that we thought
13 were going to work. Currently, I don't think
14 they're a workable solution right now. The net
15 value of what we have is the mitigation -- do
16 you want to see what mitigation looks like? I
17 hope we can get this on TV. This is what
18 mitigation looks like in my neighborhood. This
19 is what mitigation looks like. It hasn't been
20 solved. So now we're going to do a mitigation
21 process and hope that we're going to get it
22 done after the fact. It's not going to happen
23 because this is what we have.

24 The Town was so nice because they
25 bolted down a headstone on the sewer. Guess

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2 what happened? All around the sewer head
3 turned to garbage. So I'm really concerned
4 that somehow after it gets out of here, we
5 still got to get this to the Yonkers processing
6 plant. Is that a fair statement? We have to
7 get to Yonkers. How are we going to do it?
8 This mitigation doesn't help me. It doesn't
9 help any of our neighbors in the north end.
10 And you're standing there looking blank. This
11 is my neighborhood. This is your neighborhood.
12 Let's not go forward until we resolve the
13 mitigation -- not mitigation, find solutions.

14 I went to the Town Board last week and
15 identified that the Town Board needs to be
16 involved and capital appreciation in order to
17 correct this problem. It's not the developer's
18 problem. This is long due, 15 years of waiting
19 this to bubble up.

20 I'm sure you're all aware that when
21 Margaret back on March 18, 1920 -- 2020 wrote
22 to the Westchester County Planning Board
23 referral review, they stipulated six or seven
24 items. I hope you've all reviewed this in
25 detail. I'm sure you have. It weighs out the

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2 plan what's going to be required. I don't see
3 the Town doing it.

4 The first one being -- the first item
5 they wanted to see something about fair
6 housing, they wanted to see pedestrian access,
7 unbundled parking, county sewer impact. Right
8 here, number 5. I know this is a referral
9 agency, but they clearly lay out very, very
10 pertinent things that need to get done. At the
11 time the ownership was passed, they recommended
12 corrective action be enforceable. Storm water
13 management, number 6. It goes on to say you
14 need to get it solved and not wait for the
15 issue to be resolved. Talk about green
16 technology. This is signed by Norma Drummond,
17 who is the Commissioner of the Westchester
18 County Planning Board Referral Review. Now, I
19 hope you've all reviewed this in intimate
20 detail. It is a suggestion, but I don't see
21 where we've actually taken it into
22 consideration in this proposal.

23 THE CHAIRMAN: I think you're
24 overstating. When memos such as this are sent
25 to Margaret, I'm pretty sure she pays attention

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2 to it and implements everything on it. So by
3 saying we don't pay attention to it is sort of
4 minimizing the amount of effort that goes into
5 this operation.

6 MS. UHLE: I also want to clarify one
7 thing. Mr. Sweeney, the County letter from the
8 Westchester County Planning Board, which is a
9 letter that indicates recommendations for
10 things for the Planning Board to consider, not
11 requirements, in talking about this particular
12 project it says -- let's see -- it's a policy
13 that municipal governments require applicants
14 to identify mitigation measures that will
15 offset the projected increase in sewage flow by
16 requiring the applicant to discuss methods of
17 inflow and infiltration mitigation. That's
18 exactly what this board has required the
19 applicant to do. So the applicant has
20 addressed issues related to inflow and
21 infiltration directly related to the increase
22 in sewer flow, and they are proposing
23 mitigation measures. That is an issue that
24 this board took very seriously from day one of
25 this application in order to address that very

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2 concern that you showed us in the picture.
3 You're talking about mitigation. I think the
4 Highway Superintendent may have bolted down the
5 manhole cover so that it doesn't, you know,
6 explode during rainfalls, etcetera. So these
7 are new mitigation measures that are being
8 proposed specifically to help alleviate the
9 problem that you're talking about.

10 The reason that we're asking the
11 applicant to do it is because we have a little
12 bit of leverage right now. The County has said
13 to us, it's a policy that you ask builders to
14 do this. So we're taking advantage of that and
15 asking the builder to provide mitigation
16 measures in relation to the sewage flow that
17 they're adding.

18 The second paragraph here talks about
19 things that the Town could do to implement.
20 What that talks about is doing, you know --
21 recommends that the Town implement a program
22 that requires inspection of the sewer laterals
23 from private homes. So what they're saying is
24 they recommend that we inspect homes within
25 this neighborhood to see if there are any

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2 illegal connections. That's something totally
3 separate and unrelated to this particular
4 application and is totally a Town Board --

5 MR. SWEENEY: When is it going to be
6 done?

7 MS. UHLE: Again, that's the Town
8 Board. Nobody on this board has that
9 authority. What I wanted to tell you again,
10 because you keep referencing this letter, the
11 letter with regard to County sewer impacts has
12 two very distinctive separate paragraphs.

13 One relates to what the Planning
14 Board's responsibilities are with regard to
15 reviewing the application. They have taken
16 this very seriously from day one. They've had
17 the applicant identify proposed sewer flows,
18 and they're requiring that he provide
19 mitigation measures to address those flows to
20 alleviate the problem that you pointed out.

21 The second paragraph has to do with
22 what they recommend the Town do. That is one
23 hundred percent a Town Board determination that
24 nobody on this board has any control over, and
25 it's totally unrelated to this application.

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2 MR. SWEENEY: Can you tell me where
3 the storm sewer and the household sewerage
4 comes together? Do we know that?

5 MR. TUDISCO: Mr. Sweeney, you
6 specifically brought up that memorandum, and
7 you said that it says here that the County is
8 recommending on new projects that the applicant
9 show mitigation, and that's exactly what
10 happened here. In terms of town-wide policy
11 and what the Town should do in a separate
12 paragraph, those are issues that this board has
13 no authority over and have to be addressed by
14 the Town Board.

15 MR. NEMECEK: You said you've gone to
16 the Town Board. You even said yourself, this
17 is not an issue for this developer. You're
18 right about that.

19 MR. SWEENEY: I went to the Town
20 Board, and I got the same reaction. Everybody
21 sat there with their hands on the table.

22 MR. TUDISCO: But that's not the
23 reaction here. We're telling you what you
24 asked this board to do, they've done, and it's
25 been explained to you on a number of occasions.

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2 MR. NEMECEK: If I could, Rob, your
3 very letter here, and Margaret stopped short of
4 this paragraph, the last sentence of the first
5 paragraph in the section on county sewer
6 impacts, it says the best means to do so -- and
7 that is mitigation efforts -- is through the
8 reduction of I & I at a ratio of three to one
9 for market rate units. That three to one ratio
10 I, personally, have explained to you twice
11 after hearing it.

12 MR. SWEENEY: Explain this to me
13 twice.

14 (Indicating.)

15 MR. NEMECEK: That's a different
16 issue.

17 MR. SWEENEY: It's not a different
18 issue. This happens every single time with two
19 inches of rain.

20 MS. UHLE: That's what we're trying to
21 help mitigate and alleviate.

22 MR. SWEENEY: Where are you going to
23 process the sewage and the storm water to get
24 it to Yonkers? That's all I'm asking. How are
25 we going to get it there? You're saying it's

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2 the Town Board's responsibility. We have a
3 developer here, obviously he wants to move
4 ahead and do it, that's fine. Show me and tell
5 me how we're going to get it to Yonkers. I
6 don't think you could move forward without at
7 least understanding how we're going to get it
8 there. We know we're not going under the
9 railroad tracks. We know we're not going
10 through the tunnel. Where are we going?

11 MS. UHLE: We're going through the --
12 and I'm not the engineering consultant, but
13 we're going through the existing pipes. The
14 problem, my understanding is, and again, Joe,
15 correct me if I'm wrong, there's not a capacity
16 issue. It's not that the sanitary pipes can't
17 accommodate the sewage flow. The sewage is
18 going to go through the pipes and go on to
19 Yonkers. The reason you get that picture when
20 it rains is because -- two reasons: Rain water
21 gets into the pipes through cracks and joints
22 and that kind of thing.

23 MR. SWEENEY: I agree.

24 MS. UHLE: The other reason is, very
25 likely, people within the neighborhood have

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2 illegal connections. They're pumping water
3 during rain into the sanitary sewer system,
4 which is increasing water into those pipes so
5 that you're getting that bubbling up. So what
6 we're trying to have the applicant do is repair
7 some of those pipes so that the water doesn't
8 infiltrate those pipes, create manholes so that
9 the pipes could be more readily cleaned so that
10 the flow could go more freely through those
11 pipes.

12 The issue about going under the tracks
13 or through the tunnel, etcetera, that was to
14 create a bypass to take some pressure off of
15 that manhole. That was only one of the
16 alternatives that was totally unfeasible
17 because of the cost of it. The sanitary sewer
18 is still going through these same pipes. What
19 we're trying to do is repair those pipes and
20 make it easier to clean them out or to redirect
21 the flow where we're repairing that one
22 manhole, so that that manhole that bubbles up
23 doesn't get all the pressure on it. Believe
24 me, we have had hours and hours and hours of
25 discussion trying to do our due diligence for

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 2 one reason only, and that is to address the
 3 problem that you have a concern with. I
 4 guarantee you, the builder would rather do
 5 nothing. The only reason -- no offense to the
 6 builder -- the reason he's doing it is because
 7 you have a Highway Engineer, you have a
 8 Director of Planning, you have an engineering
 9 consultant that have taken this issue
 10 incredibly seriously, but we have to do it
 11 within legal parameters, and that's what we've
 12 done.

13 MR. SWEENEY: I'm not questioning the
 14 legality or the effort that they put in to try
 15 and solve it, but the Town hasn't solved it.
 16 The Town hasn't solved it. Now they're asking
 17 you to make a decision based on something that
 18 maybe is not going to get fixed. I appreciate
 19 the approval for the conditions tonight, but
 20 again, it's after the fact. I'm looking for
 21 something up front, that's all. Something up
 22 front.

23 The pipes, JMC, when we did the
 24 previous appointment, they were 80 to 90
 25 percent at capacity then. That was about eight

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 2 years ago. It hasn't changed. It hasn't
 3 changed.

4 We would like to see the project get
 5 through, but we can't live with this type of
 6 sewage and unknown. Everybody is sitting back
 7 and saying, not my problem, you know.

8 MR. TUDISCO: I'm going to disagree
 9 with you there because that's not what they've
 10 said. You said the Town has to do something,
 11 and the Town Board is designated for that
 12 process. This board has to make sure that this
 13 developer is not going to add to that problem.
 14 In fact, it's going to mitigate that problem on
 15 a three to one basis. We have brought in
 16 engineers to make sure that that's, in fact,
 17 what they're doing. So nobody is sitting back.
 18 This is exactly what they're doing to address
 19 those exact concerns. You may not agree with
 20 them. You may want to see more. You may want
 21 to see that problem completely fixed. But the
 22 engineer explained, and Margaret explained, and
 23 the Chairman explained earlier, that it's not
 24 the responsibility of each applicant to fix the
 25 entire Town's drainage problems. They have to

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 2 show that they're not going to contribute to
 3 them, and they have to show a specific
 4 mitigation that is actually going to make the
 5 situation better.

6 MR. SWEENEY: The area that we're
 7 talking about, okay, it somehow has to get from
 8 Scarsdale Avenue to the Yonkers processing
 9 plant. That's a given. That's no magic there.
 10 Its got to get there somehow.

11 THE CHAIRMAN: Mr. Sweeney --

12 MR. SWEENEY: It has to get to the
 13 Yonkers processing plants.

14 THE CHAIRMAN: Mr. Sweeney, with all
 15 due respect, we've addressed all the concerns.
 16 What we've said is, that any additional flows
 17 that have been put into the system have been
 18 mitigated. We're not solving any problems that
 19 are already in place. So the amount of sewage
 20 or the amount of storm water that is put into
 21 the system is being mitigated by any changes
 22 that are being done. I'm not solving whatever
 23 questions you have about the Yonkers flow.
 24 That's not what we're here to do.

25 MR. SWEENEY: All I ask is we need to

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 2 do some more work. We're not there yet.
 3 Please don't do this to the people in the north
 4 end. There's too many unknowns. I ask you to
 5 review tonight and defer your decision so
 6 someone somewhere, whether it be Town Board or
 7 a combination of engineers, they can get
 8 together and prove to me we're going to get it
 9 to the plant. That's all. It's not rocket
 10 science. You surely don't want to do this to
 11 the neighborhood.

12 MR. NEMECEK: Mr. Sweeney, you showed
 13 us a photo of what exists now. If we do
 14 nothing, that's going to continue to exist.
 15 What our consultant has told us is that -- and
 16 this is working with the Highway Department,
 17 working with the Planning Department, working
 18 with the developer -- that this is our best
 19 estimate of how we can reasonably affect
 20 positive change in the form of mitigation that
 21 will help the problem. I don't think you have
 22 the knowledge that Mr. Cermele has, that the
 23 Highway Department has. You've been the victim
 24 of it, perhaps. You've taken photos of the
 25 problem. If we don't attempt to do something

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 2 such as a mitigation effort here, it is going
 3 to stay the same. As Mr. Bonanno said, the
 4 Chairman, this is a best effort to -- first of
 5 all, to make sure that this application isn't
 6 going to make the system worse, but as Mr.
 7 Tudisco said, every effort is being made to
 8 assure -- and there are no guarantees, but we
 9 have all the best minds on this, and, with all
 10 due respect, people who know a lot more about
 11 this subject than I do, than Mr. Tudisco does,
 12 than the Chairman does, than you do, and they
 13 are saying this is our best opportunity to
 14 affect a positive change and you want to stop
 15 it in its tract.

16 MR. SWEENEY: I don't want to stop it
 17 in its tracks. I want a solution, that's all.

18 THE CHAIRMAN: The solution has been
 19 put forth. The solution is here. It's on the
 20 drawings, and it's what's going to get
 21 constructed.

22 MR. SWEENEY: We surely don't want the
 23 thing built and it has those photos, that I'm
 24 almost embarrassed to show on TV. Almost
 25 embarrassed. You wouldn't want to walk within

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 2 a block and a half of that sewer.

3 MS. UHLE: Mr. Sweeney, have you, as
 4 the President of the North Eastchester Civic
 5 Association, talked to your residents about
 6 illegal connections or sump pumping into the
 7 sanitary sewers? Because that is likely one of
 8 the -- and again, I don't know sure, but that
 9 likely is creating or contributing to that
 10 problem, is people that during storm events
 11 sump pump into the sanitary sewer system, and
 12 that's individual homeowners and individual
 13 residents. That's what the County letter says,
 14 it recommends the Town implement a program that
 15 requires inspection of sewer laterals from
 16 private homes for leaks and illegal connections
 17 into the sewer system, such as from sump pumps.
 18 So again, people may not realize in your
 19 neighborhood, that sump pumping into the
 20 sanitary sewer system contributes to this
 21 particular problem. So that may just be simply
 22 an education program too, but I wanted to point
 23 that out to you because you are the President
 24 of the North Eastchester Civic Association.
 25 This is something that residents have a very

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 2 real ability to address if they're concerned
 3 about that particular problem, is ensuring that
 4 they're not pumping water into the sewer
 5 system.

6 MR. SWEENEY: I agree that there are
 7 two sets of sewage issues. One on Woodruff
 8 Avenue. Most of those homes were built in the
 9 early 1950's, and they probably do somehow run
 10 into Woodruff Avenue. There's another group of
 11 homes that I live on, which happens to be
 12 Lakeview Avenue, built in 1921. I have no idea
 13 what those pipes do. None. No idea. But
 14 guess what? They flow down to Scarsdale
 15 Avenue.

16 Now if you're asking me to do a survey
 17 of the homes --

18 MS. UHLE: No, I'm not asking you
 19 that. I'm asking you if people are aware that
 20 if they're sump pumping into the sanitary sewer
 21 system, that they're exacerbating that problem.
 22 Not even people that may not be aware of
 23 illegal connections, but people that are
 24 physically sump pumping into say a sink or
 25 something like that. I'm just making you aware

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 2 of that. That's what this second paragraph
 3 implies. So that's something that members of
 4 the North Eastchester Civic Association could
 5 take some personal responsibility for, to see
 6 whether that is exacerbating this situation, in
 7 addition to the proposed mitigation measures
 8 that the Planning Board is imposing on the
 9 applicant right now.

10 MR. SWEENEY: We're not dodging the
 11 issues. These homes are built 70, 80 years
 12 ago. My home is over a hundred years old. I'm
 13 not running away from the efforts. All I'm
 14 doing is looking for a reasonable solution. We
 15 all know somehow between Scarsdale Avenue and
 16 the Yonkers processing plant, which is on the
 17 other side of Garth Road, we've got to get
 18 something over there. That's it. That's it.
 19 I would be more than happy to do a survey in
 20 terms of asking people who are using sump
 21 pumps. I don't know of any personally offhand,
 22 but there could be some people out there. Is
 23 that going to be something the Town is going to
 24 take on as a responsibility, to find out who is
 25 using a sump pump?

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2 THE CHAIRMAN: It's not something
3 we're discussing under this application. It
4 was just a comment to bring it to your
5 attention.

6 MR. SWEENEY: Okay. All I ask is we
7 need some time. We ask you to take it under
8 advisement and defer the decision until the
9 September time frame. I do appreciate your
10 time and efforts. Thank you.

11 THE CHAIRMAN: Thank you.

12 MR. NEMECEK: Thank you.

13 THE CHAIRMAN: Sure, Mr. Galanek.

14 MR. GALANEK: Good evening, again.

15 Just to recap a little bit on what Frank was
16 saying, we have the sewage at a certain level
17 right now. When you put in a large project
18 like Ray Place, that's going to compound that
19 level higher because there's going to be more
20 water, sewage going through. What I think
21 Frank is asking, or possibly saying or asking,
22 is that over the last several meetings, one of
23 the things was mentioned and it's still
24 mentioned again tonight, how the developer is
25 going to actually go in and look in the sewage,

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2 you know, both ways inspection, and then also
3 with cameras, which is great, but this has been
4 going on. So I think what Frank may be saying
5 is, before you vote on anything to approve
6 this, let's see the results from all the
7 beautiful inspection that they're going to do
8 so we have an idea what situation we actually
9 have encountered from Brook Street down to the
10 actual connections to the sewage.

11 Again, as I said, if there's a problem
12 and this gets approved, and they find out or we
13 find out, the Town finds out, everybody finds
14 out that, unfortunately, we got a problem here,
15 we need larger sewage pipes or the sewage pipes
16 we have are old and dilapidated, they're
17 leaking, they're doing this, and now we need
18 new ones, and we're going to have to pay for
19 them. If they were going to pay for it, the
20 developer, that would be fine and dandy, but in
21 reality, they're not going to do that.

22 Again, what I think Frank is alluding
23 and saying is, before you give a rubber stamp
24 on this thing, let's see what results we get
25 back from the investigations, which has been

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2 mentioned over the last couple of meetings, and
3 it still hasn't been done, to my understanding.
4 I thank you again.

5 THE CHAIRMAN: Okay. So then I'm
6 going to make a motion to close the public
7 hearing on this application, 19-42, 5 Ray
8 Place.

9 MR. NEMECEK: Second.

10 THE CHAIRMAN: All in favor.

11 (AYE)

12 THE CHAIRMAN: I think we've exhausted
13 all of the studies and we've discussed this.
14 We certainly appreciate all the comments
15 brought forth by you three gentlemen and your
16 concern over your community and your roads. I
17 don't think that anything you brought forth has
18 gone unnoticed and unresponded to by Margaret
19 or any of the consultants.

20 That being said, I'm comfortable that
21 what's been put forth is adequate and will be
22 followed up clearly by our consultants, such
23 that any design would be adhered to. So unless
24 you gentlemen have any other comments that you
25 would like to add or supplement, I'm going to

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2 make a motion to approve this application.
3 Gentlemen, we're good?

4 MR. NEMECEK: Yes, we're good. I did
5 want to just add that we're all residents of
6 the town of Eastchester, and we all appreciate,
7 particularly that Mr. Sweeney brought his
8 photos, that there are problems up there. But
9 it is not the -- we can't foist all of the
10 problems of drainage of the north end on this
11 single applicant. We can make sure that this
12 applicant isn't making it any worse, and, in
13 fact, on our best estimates, is going to make
14 efforts to make this better. Under those
15 circumstances, given all the time that has been
16 spent on this -- and I did look, the first time
17 the application was before this board was in
18 October of 2019, so it's been a year and nine
19 months. I do take umbrage at the thought that
20 this bought is ever a rubber stamp for
21 anything. I know we've been accused of that by
22 members of the North End before on projects
23 that haven't gone through, we've been accused
24 of rubber stamping. We don't rubber stamp
25 things. We follow process, and I think the

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2 process has been followed very carefully and
3 very thoroughly here.

4 I really have the utmost respect for
5 the professionals who have been involved in
6 this, the Margaret Uhles of the world, the Joe
7 Cermeles, the members of the Highway
8 Department. From everything I've heard, the
9 applicant -- and everything I've seen -- the
10 applicant has been very responsive and
11 cooperative and reasonable. So under those
12 circumstances, I don't have any further
13 concerns.

14 THE CHAIRMAN: Gentlemen, we're good?

15 MR. CAMPANA: I'm all good.

16 THE CHAIRMAN: So then I make a motion
17 to approve -- hold it -- there's a whole list
18 of conditions that we don't need to go through.
19 Subject to the list of conditions of approval
20 that Margaret -- it's on the screen -- subject
21 to those conditions, of which there's quite a
22 few pertaining to construction and everything
23 else, rock removal, so subject to those
24 conditions, I make a motion to approve the
25 application, 19-42, 5 Ray Place.

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2 MR. NEMECEK: Second.

3 THE CHAIRMAN: All in favor.

4 (AYE)

5 THE CHAIRMAN: Thank you. That being
6 said, I think we're done; right?

7 I make a motion to close the public
8 hearing of July 20th, 2021.

9 MR. NEMECEK: Second.

10 THE CHAIRMAN: All in favor.

11 (AYE)

12 THE CHAIRMAN: Great. Thank you.

13 MR. NEMECEK: Enjoy your summer,
14 everyone.

15 THE CHAIRMAN: Thanks, guys.

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2 CERTIFICATION
3

4 STATE OF NEW YORK)
5) SS.

6 COUNTY OF WESTCHESTER)

7 I, DINA M. MORGAN, Court Reporter and
8 Notary Public within and for the County of
9 Westchester, State of New York, do hereby
10 certify:

11 That the above transcript was taken from
12 a video of the actual hearing. I was not
13 present for such hearing. The video was taken
14 and transcribed by me to the best of my
15 ability.

16 And, I further certify that I am not
17 related to any of the parties to this action by
18 blood or marriage, and that I am in no way
19 interested in the outcome of this matter.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 17th day of September, 2021.

22

23

24

25

DINA M. MORGAN
Court Reporter

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CORRECTION SHEET

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