EASTCHESTER ZBA - 10/13/2020

THE CHAIRMAN: Welcome to the town of Eastchester Zoning Board of Appeals meeting for Tuesday, October 13th, 2020. Calling to order our meeting. Tonight’s meeting will be held remotely via Zoom teleconference. I would like our Town Attorney to explain the format of the meeting and why we’re having a Zoom meeting.

M.R. TUDISCO: Thank you, Mr. Chairman. Just very simply, based upon the current Covid epidemic, there are a number of restrictions to the courtroom. Initially, the meetings were not allowed to be held in person, and so, by order of the Governor, we’re meeting in this remote format. For those who can’t access this particular format, they can still call in via the telephone.

THE CHAIRMAN: Thank you, counselor. So a few things very quickly. I usually take this opportunity, because this is being held remotely, there are certain procedural aspects of our meetings that are not being conducted tonight, like a roll call or Pledge of Allegiance. I also go through the ground rules. We observe Robert’s Rules of Parliamentary Order, which means, among other things, that if someone is going to be speak, they will be recognized by the Chair.

Additionally, any item on the agenda that is new business will not be decided upon as a term and condition of every new application. These matters are marked submitted, they’re deliberated upon, and the earliest a decision would be made is the next meeting. That’s important because our calendar is printed a year in advance and anyone contemplating a variance would need to know their timing. So for instance, anything new tonight would not be decided until the earliest November, we don’t meet in December, and our 2021 calendar is now out by the way. So if you’re planning a variance application, you’ll be able to go on line and not only get the calendar but the information associated therewith.

Additionally, on our calendar we have one matter on for resolution. The remaining items are new business, except for one matter.

TOWN OF EASTCHESTER

STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF EASTCHESTER

TRANSCRIPT OF EASTCHESTER ZONING BOARD OF APPEALS

OCTOBER 13, 2020

MEETING HELD VIA ZOOM

BEFORE: TOWN OF EASTCHESTER
Building and Planning Department

ALAN FILIA, CHAIRMAN
JOSEPH MILLER, MEMBER
MICHAEL CARALIS, MEMBER
PETER NORMA, MEMBER

PRESIDENT
RECEIVED
MARGARET SWEL, DIRECTOR OF PLANNING
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY

Dina M. Morgan
25 Colonial Road
Bronxville, New York 10708
914-469-6353

Dina M. Morgan, Reporter

1 TOWN OF EASTCHESTER

2 EASTCHESTER ZBA - 10/13/2020

2

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1 that is a holdover as old business. All those items except for the resolution are public hearings. So the applicant and board members speak firstly, then we will open the public hearing. If someone would like to make a comment, use the raise your hand feature on Zoom. It's star nine if you're calling in from a phone. Our Town Attorney, Robert Tudisco, will acknowledge you and invite you to speak.

11 At that time, you'll be asked to unmute your microphone and state your name and address for the record.

12 So let's start the meeting. I make a motion to approve the minutes of the June 9th, 2020 ZBA meeting; is there a second?

13 MR. DE MARCO: Second.

14 THE CHAIRMAN: Mr. DeMarco. All in favor.

15 (AYE)

16 THE CHAIRMAN: Okay. Item 1 on the calendar, 20-13, 10 Leewood Drive, Troublesome Brook Pumping Station. I make a motion to approve Application 20-13, 10 Leewood Drive, Troublesome Brook Pumping Station, adopting a

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1 Negative Declaration and approving the use and
2 area variances. Is there a second to my
3 motion?
4
5 MR. DE MARCO: Second.
6 THE CHAIRMAN: Mr. DeMarco. To the
7 vote. Mr. Cahalin.
8 MR. CAHALIN: No.
9 THE CHAIRMAN: Mr. Miller.
10 MR. MILLER: Yes.
11 THE CHAIRMAN: Mr. Nurzia.
12 MR. NURZIA: Yes.
13 THE CHAIRMAN: Mr. DeMarco.
14 MR. DE MARCO: Yes.
15 THE CHAIRMAN: And I vote yes. That
16 application has been approved four to one.
17 Now we’re on the calendar items of new
18 business. For those applicants who are
19 appearing today, as I frequently comment, your
20 application is marked submitted. The Board has
21 had an opportunity to review the applications
22 thoroughly. All items of the application are
23 public record. So for the sake of brevity and
24 also to note that it really, as we reviewed it,
25 is not going to either help or hurt your

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1 application, you don't need to read the
2 application. I may ask you in certain
3 complicated applications, to summarize certain
4 aspects, but again, I would ask you when you
5 come up you could just briefly tell the Board
6 what it's about. Then what we generally do is,
7 the Board will have an opportunity to ask
8 questions or make comments, and the public will
9 have an opportunity to be heard, and then the
10 Board will be heard again, and it will go from
11 that point forward. Any applicant will have an
12 opportunity to respond to any questions,
13 comments from either the Board or the public.
14
15 Having said that, first new business
16 item is 20-08, 291 Main Street.
17 MR. CAMPANA: Good evening, Chair,
18 members of the Board, I'm Louis Campana,
19 architect for the proposed mixed use
20 development at 291 Main Street for BKB
21 Eastchester, LLC.
22
23 The proposed development is a
24 permitted use; however, a number of variances
25 are required, which I will discuss. Because we

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1 structure, I want to first review the site, the
2 existing building, and context of the immediate
3 neighborhood. If I could share my screen.
4
5 THE CHAIRMAN: Please.
6 MR. CAMPANA: Okay. So this site,
7 which is also known as Section 67, Block 2, Lot
8 13, is located in the RB zone. Here is the
9 site right here. It's located on the west side
10 of Main Street at its intersection with Hall
11 Avenue. As you can see, this site is also
12 adjacent to the R3 zone. Because it's within
13 150 feet from a residential zone, there are
14 special dimensional regulations that apply to
15 the parking lot and building height.
16 Here is the existing survey.
17 Currently situated on site is a one story --
18 situated on the site is a legal dimensionally
19 non-conforming one story brick building which
20 was constructed in 1984. As part of its
21 initial approvals, area variances were granted
22 for a zero setback at the front property line,
23 zero setback at the street side property line,
24 and 5 foot setback at the northerly side yard.
25 In addition to that, there was also an

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1 area variance granted for 10 parking spots with
2 a width of 8 foot 9 inches. A copy of this
3 approval was included in our application to the
4 Board.
5
6 The site was also developed without
7 landscape buffers along the southern and
8 northerly sides of the parking lot. However,
9 there is an existing grass buffer here towards
10 the rear yard, which we plan to maintain and
11 improve.
12 I just want to go to the existing
13 photographs of the existing structure. So here
14 is 291 Main Street as viewed from Main Street.
15 This is the view from Hall Avenue. This is the
16 back of the building from the parking lot, and
17 the northern side. Here are some of the
18 properties within a 200 foot radius of 291
19 Main. Here is as viewed from Hall Avenue and
20 this is from Main Street. It sort of wraps
21 around the site, wraps around 291 Main Street.
22 These two properties here directly north from
23 the proposed site is an existing three story
24 multi use building. Just north of that, another

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1 is the back of what we know as AMHAC. Next to that is another three story stucco building. Directly across Main Street from 291 is the back of Mavis. Then going down further south, we have the Sunoco Station, then another mixed use building here. Across Hall Avenue from 291 Main is this two story multifamily brick building. Directly behind that, you could see here is the church, which I'll get to. These are two developments south of that two story multifamily building. Here is the church I was discussing. This is directly across the street from the Waverly School. Then we have two residential properties beyond that, so past the church and also past the Waverly School.

What is significant about the context around the site, more specifically the two story multifamily building here, the church on Hall Avenue, and the Waverly School, is that these properties collectively act as a substantial buffer between 291 Main and the residential properties in the R3 zone.

After reviewing these photographs and if you've ever had the chance of driving or

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walking down this section of Main Street, it's quite evident that this area lacks a sense of identity. We took this into consideration. We made it a top priority to create a building and site that will provide this area with the identity it lacks, and a project that will work to enhance the character of the neighborhood, and hopefully act as a catalyst for feature development.

Now I just want to go to the proposed site plan. So here is the proposed site plan. As discussed previously, we're proposing to convert this one story brick building into a three story mixed use building. The first floor will be renovated and converted into office spaces for the owners accounting and insurance agency. The two story addition on top will consist of five residential units, four, two bedroom apartments and a single one bedroom unit.

Now, it's important to keep in mind that what we're doing is building on top of an existing non-conforming structure. So in terms of setbacks, on the front yard here instead of

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30 feet, to the top of our roof we have
34.9 feet; this first parapet here, 37.9 feet;
and then finally these two areas at 40.9 feet.

So those are the area variances that
are in question that we'll discuss. Also,
there is a 29 parking space minimum
requirement, and we're proposing 11. We do
have here with us tonight Mark Petroro. He is
our traffic engineer from JMC, and he can
answer any questions that you have in terms of
the parking.

With that, if you have any questions.

THE CHAIRMAN: Thank you for your
presentation, Mr. Campana. As a matter of
fact, I found your presentation, your
submission to be equally concise and to the
point. I usually open this up to the Board,
but I think I would like to comment, and I
would like to start first because there are a
number of variance, some of which are related
to the existing non-conformity, and most of
which, in my estimation, I find di minimus. I
found your site plan to be, as you've
described it, in somewhat conformity with the

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neighborhood, and I think it would wind up
being an improvement. But I want to really
draw down and cut to the chase on the issue for
me, and that is the parking. We have Mr.
Grealy, Phil Grealy, available to answer
questions and comments about traffic and
parking, but I would certainly want your expert
to have an opportunity to explain this because
that's really my concern. The parking is
really what has drawn my attention to this.
Can you do that?

MR. CAMPANA: Yes, sure. Margaret, if
you could promote Mark.

MR. PETRORO: I'm here.

MR. CAMPANA: There you are. How are
you, Mark?

MR. PETRORO: Hi, how are you doing?

My name is Mark Petroro. Again, I'm from JMC,
we're the traffic engineers on this. We did
provide two submissions to the Town regarding
the traffic aspects of the application.

So just getting to the point with the
parking, as was stated, there were 11 proposed
parking spaces. So we used the industry

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standard parking generation manual from ITE
that projects the parking demand associated
with various land uses. We looked at the two
different uses, the residential component and
the office component. So the residential
component really has a demand during the
nighttime on weekdays when residents would be
home and on the weekends on Saturdays, whereas
the office use would have a peak parking demand
more during the weekday when people would be in
the office. So what that does is, due to the
mixed use, you have a concept of shared parking
on the property. So while the office is in
use, the demand for the residential parking
would not be there at that time. So in the
middle of the day on, say, a Tuesday, you know,
you have people using the office use but the
parking for the residential is either minimal
or non-existent during that time because people
would be out working. That's what we consider
the concepts of shared parking, where you share
a single space for multiple uses on the
property. Instead of calculating out the
parking demand on each individual use, this is

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there was an additional need for overflow, but
if there is, that's where the additional people
could be accommodated.

MR. CAMPANA: If I could just make one
comment here. Louis Campana, sorry. On Main
Street, existing there are 21, 2 hour spots
located just across the street on Main Street.
Also, on Hall Avenue beside Mavis, there's an
additional 4, 2 hour spots. After 6 p.m.
Monday through Saturday, across the street on
Hall Avenue, there's an additional I believe
it's 3 or 4 spots, which could be used even for
guests of the residents, if need be.

THE CHAIRMAN: Okay. Thank you. At
time I think what I would like to do is
have Mr. Grealy give his opinion and comment on
your commentary.

Mr. Grealy, are you available?

MS. UHLE: Phil, you need to un-mute.

MR. GREALY: Good evening, Mr.
Chairman, Philip Grealy, Maser Consulting.
So I think the applicant's engineer
and Mr. Campana have given a pretty good
synopsis of what was looked at and what's

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available in the area. In terms of the ITE,
Institute of Transportation Engineers, and
Urban Land Institute, which Mr. Petoro
referred to, shared parking is an accepted
means of looking at mixed use developments. In
this case with the mix of office and
residential, the residential, as Mr. Petoro
had indicated, on the weekday during the day
when the office is at its peak, typically the
residential demand is about -- based on ULI and
ITE data -- somewhere 30 to 35 percent or less
utilization at the time when the office would
be at its maximum utilization.

In terms of the use -- and I think Mr.
Campana had indicated that there would be an
insurance agency occupying some of this
space -- so in terms of the office space or the
commercial space here, if it is that type of
use, that is a very low parking demand usage,
and you would have some turnover of people that
would be coming there, clients, etcetera.

In terms of the shared parking, I
think we're right at the number of spaces that
if you plug in the square footage and you plug

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use the shared parking. It is an accepted
methodology. In reviewing the revised numbers
that Mr. Petroro had submitted, as I said,
we're right at the mark in terms of the total
number of spaces that would be required is
right at that 11 number. So if there was
additional demand, they would have to park on
the street, and there are some opportunities,
although they may be somewhat limited, but I
think the turnover because it's two hour
parking along Main Street north of Hall, you
get enough turnover that can be utilized by any
visitors or either to the residential or people
visiting the office space.
THE CHAIRMAN: Thank you, Mr. Grealy.
I appreciate your time and expertise on this.
As far as my questions -- I made my
comments earlier. As far as my questions are
concerned about parking, I think they have been
adequately answered. I'm going to now go to
the remainder of the Board and see if they have
any questions or comments. Mr. DeMarco?
Mr. DE MARCO: Nothing.
THE CHAIRMAN: Mr. Nurzia?
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MR. NURZIA: No questions.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: No questions.
THE CHAIRMAN: Mr. Cahalin?
MR. CAHALIN: No questions.
THE CHAIRMAN: So I do then make a
motion to open this matter to the public for a
public hearing; is there a second to my motion?
Mr. DE MARCO: Second.
THE CHAIRMAN: Mr. DeMarco. All in
favor.
(AYE)
THE CHAIRMAN: Would anyone from the
public like to be heard on this? Mr. Tudisco,
is there anybody?
MR. TUDISCO: If there is anyone from
the public who wishes to voice a concern or
address the Board regarding this application,
please use the raise hand feature, and I will
invite you to un-mute yourself.
Mr. Chairman, going through the
attendees on the list, I do not see anyone
indicating that they wish to speak to the Board
or voice a concern.
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a one car garage with a family room behind.

MR. CAHALIN: You're not sharing.

MR. MYLENSKI: And provide more room
in the master bedroom above.

MR. TUDISCO: Ms. Mylenski, we can't
see your screen. Now we can.

MS. MYLENSKI: Sorry about that.

THE CHAIRMAN: Okay.

THE CHAIRMAN: Okay. I make a motion
to close the public hearing on this matter; is
there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in
favor.

(AYE)

THE CHAIRMAN: Back to the Board. Mr.
Cahalin, anything?

MR. CAHALIN: Nothing.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No.

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very minimal from their view.

Do you have any questions?

THE CHAIRMAN: Thank you. Let me go
to the Board and see. Let's start with Mr.
Cahalin, any questions or comments?

MR. CAHALIN: None.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No questions.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: No, thank you.

THE CHAIRMAN: I don't have any. I
found the application again to be thorough and
straightforward.

I'm going to make a motion to open
this matter to the public for a public hearing;
is there a second to my motion.

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in
favor.

(AYE)

THE CHAIRMAN: Mr. Tudisco, is there
anyone from the public that would like to be

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1. favor.
2. (AYE)
3. THE CHAIRMAN: Mr. Tudisco, is there anyone from the public that would like to be heard on this matter?
4. MR. TUDISCO: Once again, if there are any members of the public who wish to address the Board on this particular application, please use the raise your hand feature and I will invite you to un-mute yourself.
5. Mr. Chairman, I am scrolling through the list of attendees, and it does not appear that there is anyone from the public who wishes to address the Board on this application.
6. THE CHAIRMAN: Seeing no one or hearing that there is no one, I make a motion to close the public hearing on this matter; is there a second?
7. MR. CAHALIN: Second.
8. THE CHAIRMAN: Mr. Cahalin. All in favor.
9. (AYE)
10. THE CHAIRMAN: Back to the Board. Mr. Cahalin?

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1. nothing.
2. MR. CAHALIN: Nothing.
3. THE CHAIRMAN: Mr. Miller?
4. MR. MILLER: No.
5. THE CHAIRMAN: Mr. Nurzia?
6. MR. NURZIA: No.
7. THE CHAIRMAN: Mr. DeMarco?
8. MR. DE MARCO: No, thank you.
9. THE CHAIRMAN: My only comment is that I, again, reviewed your submission thoroughly, you've answered the questions of the five part test, and I make a motion to adjourn this matter for resolution at the next meeting; is there a second?
10. MR. CAHALIN: Second.
11. THE CHAIRMAN: Mr. Cahalin. All in favor.
12. (AYE)
13. THE CHAIRMAN: Thank you, Mr. Maiorano.
14. MR. MAIORANO: Thank you.
15. THE CHAIRMAN: Next item on the calendar, number 5, 20-24, 29 Orchard Street, an area variance to construct a second driveway and second curb cut. Would the applicant state what the existing issue is?

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2 your name and address. Mr. Maiorano, you have,
3 by far, the best background that we've ever
4 had.
5
6 MR. MAIORANO: Beautiful. Thank you.
7 I figured we can't be there today, but we'll be
8 there in fantasy land, I guess.
9 THE CHAIRMAN: As a side bar.
10 Proceed.
11 MR. MAIORANO: You got it. Hello,
12 again. Adano Maiorano from Community Designs &
13 Engineering. On behalf of the applicant, Donna
14 Mollica, we are proposing an additional
15 driveway and curb cut at 29 Orchard Street.
16 This site is situated in an R-6 zoning
17 district.
18 I'm going to share my screen again.
19 So the house as it exists today, it's a two
20 family residence. As a result of that, there
21 are multi cars that are occupied within the
22 residence, and it becomes very problematic,
23 mainly in the wintertime when the applicant and
24 owner have to ask for parking permission in the
25 street to park overnight during the winter
26 months. So in order to alleviate that

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2 condition, as well as actually the existing
3 driveway, as you see from the pictures, it is a
4 slope that goes into a garage downhill
5 basically, so it's not really the most ideal
6 situation for a usable driveway as well. So we
7 are proposing that additional curb cut to the
8 left side of residence and additional parking,
9 basically a driveway, on the left side as well,
10 which will alleviate that condition of having
11 to park in the street and whatnot.
12 There is attached in your packet, a
13 letter from Lieutenant Richard Rosenberg from
14 the Traffic and Parking Committee, which
15 they're basically in favor, I guess, of this
16 condition so that they can free up the street
17 in order for snow removal and proper street
18 cleaning.
19 I'll just talk about the site very
20 quickly. In a typical residential
21 neighborhood, this may look like not the most
22 aesthetic appealing condition, but in respect
23 to this specific property, it is adjacent to an
24 M-700 district and retail business district.
25 So specific to that, there is a parking lot

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2 basically adjacent to this property right along
3 White Plains Road, as well as across the street
4 there is another parking lot, as you can see
5 from picture 3 and picture 2, the two parking
6 lots that basically abut this property next
7 door and across the street. As well, if you
8 look on that specific street and right close in
9 that neighborhood, there are very similar
10 conditions, two driveways at 34 Orchard Street,
11 very large curb cut at 37. So technically in
12 the context of the neighborhood, it would sort
13 of fit in and not really stand out and create
14 some sort of adverse effect because of the
15 proximity in specific where it's located.
16 Other than that, the additional
17 impervious area we'll be capturing on site with
18 storm drainage. We're trying to create a
19 little landscape buffer between the two
20 driveways to give it some sort of still green
21 space in the front as well.
22 That's basically it.
23 THE CHAIRMAN: Thank you for your
24 presentation, Mr. Maiorano. I should mention,
25 that the unique nature because the Eastchester

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2 Police Department and Traffic and Parking
3 Advisory Committee recommended that the
4 applicant seek a variance, and the letter from
5 the Eastchester Police Department is part of
6 the public submission. So I was remiss in
7 mentioning that, but, yes, that's a unique
8 element to this application.
9 Having said that, let me go to the
10 Board and see if there are any questions or
11 comments. Mr. Cahalin?
12
13 MR. CAHALIN: None.
14
15 THE CHAIRMAN: Mr. Miller?
16
17 MR. MILLER: None.
18
19 THE CHAIRMAN: Mr. Nurzia?
20
21 MR. NURZIA: No questions.
22
23 THE CHAIRMAN: Mr. DeMarco?
24
25 MR. DE MARCO: Nothing, thanks.
26
27 THE CHAIRMAN: I have nothing. I make
28 a motion to open this matter to the public for
29 a public hearing; is there is second?
30
31 MR. MILLER: Second.
32
33 THE CHAIRMAN: Mr. Miller. All in
34 favor.
35
36 (AYE)
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THE CHAIRMAN: Mr. Tudisco, if you can see if there's anyone that is interested in being heard on this application.
MR. TUDISCO: Mr. Chairman, I'm scrolling through the list of attendees. If there is anyone who wishes to address the Board on this application, please use the raise your hand feature and I'll invite you to un-mute yourself.
Scrolling through the list of attendees, I do not see anyone who wishes to address the Board, Mr. Chairman.
THE CHAIRMAN: Okay. Being informed that there are not public speakers on this matter or no one interested in being heard on this matter, I make a motion to close the public hearing; is there a second to my motion?
MR. CAHALIN: Second.
THE CHAIRMAN: Mr. Cahalin. All favor.
(AYE)
THE CHAIRMAN: Back to the Board. Mr. DeMarco, any questions or comments?
MR. DE MARCO: Nothing.
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THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: No.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: None.
THE CHAIRMAN: Mr. Cahalin?
MR. CAHALIN: No.
THE CHAIRMAN: I have nothing, other than the fact that, again, your submission was thorough, and it addressed the five part test. I make a motion it adjourn this matter for Resolution at the next meeting; is there a second?
MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. All in favor.
(AYE)
THE CHAIRMAN: Thank you, Mr. Maiorano, for your presentation.
MR. MAIORANO: Thank you, again.
THE CHAIRMAN: The next item on the calendar, number 6, this is 20-29, 7 Hanfling Road. Because of the history, I would like the applicant to give a little background on the history on this current application. Name and
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address for the record. Please proceed.
MR. MAIORANO: It's not me. I don't know if I should jump off.
MS. UHLE: I'll take you off.
MR. MAIORANO: I have to jump back on, but, yes.
MS. UHLE: I will demote you and promote you again.
THE CHAIRMAN: You've been demoted, Mr. Maiorano.
MR. HAYNES: Hi, everybody. This is Tom Haynes from Haynes Architecture. I hope everybody is doing well tonight. I am presenting the application before you on behalf of my client, Mr. Dan Marano, and his property is located at 7 Hanfling in Eastchester.
The Board is familiar with this project. We had made an application requesting several variances in the past. We took into consideration some of the Board's feedback, and are presenting another application in front of you tonight where we are requesting three variances on the property. As mentioned, we took concessions from the last time. The
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driveway area. The driveway now is 20 foot
width, which is clouded here for you to see
easily. The left side of the driveway is
becoming a planter area. As part of our
original application, that entire left side
there was pavement. It was going to be used as
a driveway. So now we are fully compliant with
the 20 foot width here for the driveway. What
we are over is the proposed turnaround area
located here in the front of the house. Again,
we're over and requesting a variance for that
today; however, this entire turnaround area is
actually smaller than our original application
request. I would also like to point out that,
yes, this is a proposed turnaround area that is
larger than what's permitted by code, but, you
know, also some of this area that is counted as
a turnaround area actually needs to be
circulation space to enter the front of the
house. So as you can see here, we have an open
porch, these three horizontal lines here is the
front steps coming down where one would turn
and walk in. It's a little bit of a gray area
there between what is really a turnaround area

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and partially a walkway. For all intents and
purposes today as far as our variance request
is concerned, we are proposing this as a
turnaround area.

Our second variance that we're
requesting today is the setback distance of the
gazebo roof here and it's proximity to the
existing dwelling. We're proposing a 5 foot
setback today from the dwelling to the rooftop.
Part of our original application that we had
had, we had also requested a side yard variance
with regard to this gazebo, but in turn have
reduced that back to a setback of 7.2 feet, and
we thus eliminated that variance request.
The third variance request that we are
seeking today pertains to the existing stone
barbeque located in the back rear or the rear
yard technically, we're on the corner here.
This stone barbecue is 1.9 feet southeast of
the property line. With regard to that
existing stone barbecue, I would just like to
point out that it is set down at a lower grade
because the western property does have a
retaining wall on top of it with a fence. It's

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not visible whatsoever from the street or from
the adjacent neighbor. I would approximate
that the barbeque dimension to the neighbor's
dwelling itself is probably somewhere around
30 feet of a setback from the actual dwelling.
I think that the stone barbeque request is di
minimus because it is, again, set down in a
bowl so-to-speak, and the neighbor's property
is much higher so they won't be able to see
this or even understand how close it is to the
property.

One of the hardships here, and I think
it's worth pointing out, because of the way
that the building is oriented on the corner lot
here and the fact that we are on a corner lot
in general, we have a big problem with parking
at this location. By code, we're supposed to
be 50 feet from on that corner. In theory,
we're left with a small area here, almost no
area here to park in front of the existing
dwelling. Same thing for the side yard here
for parking on the street. Obviously, you're
very familiar that you can't park overnight in
Town, but, you know, again, even just pointing

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out for parking in general in front of this
dwelling, there is really no space to do so
legally because of the setback dimensions from
the corner. Obviously, we are planning to use
this area for parking in the front here, which
is the driveway, and all part of that
turnaround area. I would also like to point
out that this existing condition which we're
proposing relief today is in character with the
neighborhood. The reason I'm saying that is
because if you've driven around this
neighborhood, there are 30 somewhat properties
that have a condition somewhat similar to this,
if not worse. I'm not certain that any of them
received variances, maybe they all did, maybe
none of them, I'm not certain. What I am
certain about is, that these conditions do
exist in the neighborhood. Essentially,
whether they were done illegally so-to-speak or
without a permit or they were approved by the
Board, the truth of the matter is that this
becomes part of the fabric of the neighborhood.
So, you know, I'm not suggesting if they are
non-conforming illegally, you know, we're not

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looking for anybody to get a violation or anything of that nature, but the truth of the matter is that this condition does exist in numerous, numerous locations. I think with that said, there is really no change in character between what is being requested here today and what exists in the neighborhood. I think that is sort of an important factor here when thinking about what our request really is.

Aside from that, as mentioned at the original meeting for our last application, my client has a number of vehicles. He has five cars, they have an ATV, they have a motorcycle, they have a major need to actually house these off the street to do the best we can to alleviate illegal overnight parking or even just parking down the block and affecting neighbors during the day.

With that said, I do know that Dan Marano, the owner, is on this meeting. He may have something to say, but I'm not certain. At this point, at least I would like to extend that invitation to him, if that's okay with the Board, either to chime in or maybe he doesn't.

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At this time, I'm going to have the Board ask any questions and make any comments. I'll start with Mr. Cahalín. Anything, Mr. Cahalín?

MR. CAHALIN: I just find it very interesting that, you know, I go out to these properties, I was there, this particular property has a big Trump sign on it, and I noticed the last time I drove by, but that said, having driven through the neighborhood, I would have liked to see the various properties that the applicant is referring to because I didn't see them, and that's my only comment. Thank you.

THE CHAIRMAN: Any questions?

MR. CAHALIN: No.

THE CHAIRMAN: Mr. Miller, questions, comments?

MR. MILLER: No questions, no comments.

THE CHAIRMAN: Mr. Nurzia, questions, comments?

MR. NURZIA: The only comment, I wish the applicant had started back three, four months ago with this application rather than the initial application. This is definitely a step in the right direction.

THE CHAIRMAN: Thank you, Mr. Nurzia. Mr. DeMarco?

MR. DE MARCO: Nothing.

THE CHAIRMAN: Nothing. Okay. As far as I'm concerned, I want to comment and support what Mr. Nurzia said, because one of the five part tests involves if the applicant can accomplish or minimize these variances, and we now see that this was something the applicant could do. I appreciate the presentation and Mr. Haynes highlighting those matters that have been either eliminated or further minimized.

Having said that, I make a motion to open this matter to the public for a public hearing; is there a second?

MS. UHLE: Alan, I think the applicant, Mr. Marano, would like to speak.

THE CHAIRMAN: Okay. So then I withdraw my motion from now, withhold it for now. Mr. Marano, please proceed.

MR. MARANO: Hi. Can everyone hear DINA M. MORGAN, REPORTER

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1 me?
2 MS. UHLE: Yes.
3 MR. MARANO: Thank you, first of all, 4 for having me. Second, I would like to respond 5 to Mr. Cahalin. If he was willing to come to 6 my house, I would gladly take him to all the 7 properties that actually don't conform to 8 today's code, and I could show him myself if he 9 would like. That's the only thing I have to 10 say.
11 THE CHAIRMAN: I don't think that's 12 necessary, but thank you for your comments.
13 MR. TUDISCO: Mr. Chairman, I just 14 wanted to kind of address a point as it comes 15 down to the law and enforcement. I think it's 16 inappropriate for an applicant and his 17 representative to make reference to other 18 people in the Town that may be either at 19 variance with the law or actually in violation 20 of the law with no specific evidence, and the 21 Board is restricted to the four corners of this 22 application. If five cars are speeding down 23 the highway and you're the one that got pulled 24 over, it doesn't mean you didn't do something 25

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1 wrong, it means you have bad luck.
2 MR. MARANO: Wait a second. I'm sorry. With all due respect -- 3 MR. TUDISCO: That is an important 4 distinction to make.
5 MS. UHLE: Alan, it's related but 6 unrelated to what Rob said. With driveways, 7 applicants often say, you know, I see many 8 others in the neighborhood that are similar.
9 One thing I want to make very clear is, the 10 laws with regard to pavement width, setbacks to 11 the property line, turnaround areas, those are 12 actually fairly recent. So you can look at an 13 aerial photograph and see a lot of driveways 14 that no longer conform. Actually, Mr. Marano 15 said it appropriately, he said, to today's 16 current laws. So there may be a lot of 17 existing driveways that don't comply with 18 current standards, but most of them are 19 constructed a long time ago. If you have 20 legal, non-conforming driveways, you're allowed 21 to repave those. If you dig them up, then you 22 have to go according to current zoning 23 standards. I have no idea with regard to this 24

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MR. DE MARCO: Second.
THE CHAIRMAN: Mr. DeMarco. All in favor.

(AYE)
THE CHAIRMAN: Mr. Tudisco, is there anyone that would like to be heard?
MR. TUDISCO: Mr. Chairman, I am scrolling through the attendees list. If there is anyone here that wishes to address the Board, please use the raise your hand feature and I'll invite you to un-mute yourself. I scrolled through a number of times, Mr. Chairman, and I don't see anyone from the public wishing to offer a comment on this application.

THE CHAIRMAN: Okay. Seeing no one or being informed that there's no one, I make a motion to close this matter to the public; is there a second to my motion?
MR. NURZIA: Second.
THE CHAIRMAN: Mr. Nurzia. All in favor.

(AYE)
THE CHAIRMAN: Back to the Board. Mr. DINA M. MORGAN, REPORTER

Cahalin?

MR. CAHALIN: Nothing further.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: I have one request, if it's permitted, since there seems to be an issue here of whether there are 40 other properties. As Mr. Cahalin pointed out, traditionally the applicant would give us photographs of those properties. If Mr. Haynes and his client would submit photographs of those properties that they claim represent the same conditions.

THE CHAIRMAN: Mr. Miller, I just want to clarify, if you are seeking additional information, and I could confirm this with Mrs. Uhle and counsel, Mr. Tudisco, I may have to reopen the public hearing on this.

MR. MILLER: I am seeking additional information. I think it's only fair. Mr. Cahalin made an excellent point, that typically that information is given to us with photographs, diagrams, and everything else. So I would like to see it if the applicant says it exists.

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do you have anything to supplement this request?
MR. CAHALIN: I'm not looking to extend the application. I appreciate Mr. Miller's comments. My point was that we usually do get that information. I did drive through the neighborhood, maybe I was asleep that day, I didn't see many like this. Since they brought it up, it would have been nice for them, if they want us to take it into consideration, to show us, but I don't need the information.

THE CHAIRMAN: Okay. So then I'm going to deny that request. I think that the four corners of the application and the presentation is sufficient. My comment is, that I reviewed the five part test and it addressed my concerns, particularly the aspect of self-created hardship.

I am going to make a motion to adjourn this matter for Resolution at the next meeting; is there a second?

MR. DE MARCO: Second.
THE CHAIRMAN: Mr. DeMarco. All in favor.

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favor.

(AYE)

THE CHAIRMAN: Mr. Haynes, thank you.

Mr. Marano, thank you for your application.

MR. HAYNES: Thank you very much.

MR. TUDISCO: Margaret, there seems to be some kind of noise floating in.

MS. UHLE: I know. I'm having trouble with my audio. Can you hear me now?

MR. TUDISCO: Yes.

MS. UHLE: It seems like it disappeared now. The audio is better; right?

THE CHAIRMAN: Yes.

MS. UHLE: I don't know what that was.

THE CHAIRMAN: Next application, this is number 7, 20-32, 13 Joyce Road. This is an area variance to construct an above-ground swimming pool. The applicant, state your name and address for the record, and briefly summarize the application, please.

MR. TUDISCO: I think we have to un-mute Mr. Iannacito.

MS. UHLE: He has to un-mute himself.

There is a little bit of delayed process.

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MR. IANNACITO: I'm not doing 13 Joyce Road. I'm doing the last two, number 9 and number 10.

MS. UHLE: 103 Leewood?

MR. IANNACITO: Yes. Is that the next one?

THE CHAIRMAN: No. We're on 7, this is 13 Joyce Road.

MR. TUDISCO: I think Mr. Maiorano said that he was doing the next application.

MR. IANNACITO: Yes. I'm number 9 and 10.

MS. UHLE: I have a list of presenters, and, unfortunately, it's not in the order of the agenda. Hold on. Sorry about that.

THE CHAIRMAN: This is Adamo Maiorano. Maybe he has a background of Hawai'i or something more exciting.

MS. UHLE: So we're on 13 Joyce right now?

THE CHAIRMAN: 13 Joyce.

MS. UHLE: Sorry about that. Give me a minute. There he is.

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MR. MAIORANO: Got it. You could hear me now?

MR. TUDISCO: Yes.

MR. MAIORANO: Still the same background. Good evening, again. Adamo Maiorano from Community Designs and Engineering. On behalf of the applicant, Gregory Leighton, we are proposing an above-ground pool in the rear yard of the residence at 13 Joyce Road.

I'm going to share my screen. So basically it's in an R-5 -- the dwelling is situated in an R-5 zoning district. This requirement for basically a pool, it requires a 10 foot separation from the primary dwelling to the pool, 10 foot setback to a side or rear yard. In our proposed project, we are proposing a 7.9 foot setback from the primary residence, and a 6 foot rear yard setback.

Basically the house abuts up against the Anne Hutchison Elementary School, so there is no typical dwelling to the rear yard. There is some existing landscaping you could see in picture 1C. Again, this will hopefully mature.

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THE CHAIRMAN: Mr. Maiorano, thank you for your presentation. Again, your application has been marked and submitted, it's been reviewed.

Let's go to the Board. Mr. DeMarco?

MR. DE MARCO: Nothing, thanks.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No questions.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Cahalin?

MR. CAHALIN: None.

THE CHAIRMAN: I don't have anything at this time. I make a motion to open the matter to the public for a public hearing; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(AYE)

THE CHAIRMAN: Mr. Tudisco, is anyone from the public interested in being heard on this application?

MR. TUDISCO: Mr. Chairman, I'm DINA M. MORGAN, REPORTER

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scrolling through the list of attendees. If there is anyone here that wishes to address the Board on this application, please raise your hand.

Mr. Chairman, I scrolled through a number of times, and it does not appear that anyone who's attending tonight's meeting wishes to say address the Board on this application.

THE CHAIRMAN: Thank you. Being informed of that, I make a motion to close the public hearing on this matter; is there a second?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. All in favor.

(AYE)

THE CHAIRMAN: Back to the Board. Mr. Cahalin?

MR. CAHALIN: Nothing.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Nothing.

THE CHAIRMAN: Mr. DeMarco?

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Carmela Pegna, we are proposing a new rear yard deck at 10 Carrie Place.

Let me just share my screen. In this case, the property is situated in an R-6 zoning district, very similar to our recent reviewed project. The rear yard setback required in this zoning district is 19 feet, and what we are proposing is 13 feet.

So as you could see here, there is an existing deck that's non-conforming. What we're proposing is to obviously remove that existing non-conforming deck and construct a new deck in very similar size, shape and condition, yet, in this case, this deck, you know, with the granting of the variances, hopefully, it would be a permitted condition.

So the rear yard is screened. You could see in picture 1C, there is landscaping screening this rear yard deck. It has been in existence, if you went there, a very long time. It's very old wood. It's nothing that seems to be constructed recently. We would like to rebuild this deck with new material, and the applicant wishes to create that comfort to walk.

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out of the first level of the house and have a usable deck instead of having to walk down to, say, a of grade patio or whatnot. Nothing that we would create any sort of different condition that, say, existed for many years, but just replacing basically what's there. What we're asking for is that rear yard setback of 6 feet that we are deficient in the rear yard.

That basically summarizes it.

THE CHAIRMAN: Thank you, Mr. Maiorano for your presentation and your submission.

To the Board, Mr. Cahalin, any questions or comments?

MR. CAHALIN: Nothing.

THE CHAIRMAN: Mr. Miller, any questions or comments?

MR. MILLER: No come questions.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No questions.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: Nothing, thanks.

THE CHAIRMAN: I have nothing at this time. I make a motion to open the matter to the public for a hearing; is there a second to

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my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. All in favor.

(AYE)

THE CHAIRMAN: Mr. Tudisco.

MR. TUDISCO: Mr. Chairman, I'm scrolling through the list of attendees. It does not appear that anyone wishes to address the Board on this application.

THE CHAIRMAN: Okay. Being informed that no one was interested in being heard on this matter, I make a motion to close the public hearing on this matter; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(AYE)

THE CHAIRMAN: Back to the Board. Mr. Cahalin?

MR. CAHALIN: Nothing.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

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THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Nothing.

THE CHAIRMAN: I have nothing, other than you've addressed very concisely the five part test. I make a motion to adjourn this matter for Resolution at the next meeting; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(AYE)

THE CHAIRMAN: Mr. Maiorano, thank you.

MR. MAIORANO: Thank you, everybody, for your time. I appreciate it.

THE CHAIRMAN: Item number 9 on your calendar, 20-30, 103 Leewood Drive. This is an area variance to expand an existing driveway.

If the applicant would state the name and address for the record and give us a brief summary.

MR. IANNACITO: Good evening,

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everyone. My name is John Iannacito, I'm an architect, and I'm representing Mr. and Mrs. Joe Hauser, the owners of the subject property.

We are requesting area variances to expand and resurface the existing driveway at 103 Leewood Drive.

Here is the site plan showing the existing driveway, and the area that's shaded is the expansion area. The owner of this property started work on the driveway in August, and received a stop work order from the Building Department for not having the proper permits in place for the work. Then after filing for the permit, he realized that he needed some variances.

So we are requesting two area variances this evening. The first is for the driveway width, where the maximum allowed width is 20 feet and the proposed is 26 feet. The second variance is for the impervious surface coverage, where the allowable coverage is 3,614 square feet and the proposed is 3,969 square feet.

MR. MILLER: Are you sharing your

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screen right now, John?

MR. IANNACITO: I'm sorry. Let me see. Share screen. I thought I was. Let's see. I don't see the button for sharing screen here.

MS. UHLE: Down at the bottom of your screen. Are you on a tablet?

MR. IANNACITO: I see mute, stop video, more. Let me get my technical support. My lovely daughter is going to come in and help me figure this out.

MS. UHLE: Are you on a new computer?

MR. IANNACITO: No, it's the same one.

I'm not sure what's going on here.

MS. UHLE: You've done this many times before.

MR. IANNACITO: Can everyone see it now?

THE CHAIRMAN: No. There you go.

MR. IANNACITO: Sorry about that. We are requesting two area variances. The first was for the driveway width, where the maximum permitted is 20 feet and proposed is 26. The second variance is for the impervious surface.

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coverage, where the allowable is 3,614 square feet and the proposed is 3,969. Here is the existing driveway, and the shaded area represents the expansion.

The proposed driveway will not have an adverse character or environmental impact on the neighborhood. Can everyone see the photos?

MR. CAHALIN: No.

MR. IANNACITO: How about that, can everyone see that?

THE CHAIRMAN: Yes.

MR. IANNACITO: This is a photograph of the neighborhood. Here is one house that has a double wide, which could be 20 feet, it might be a little more. Here's the house directly across from the subject property, also a wider driveway. Here is the subject property showing the work in progress. This here represented the existing driveway, and this is the new expanded area. Here is directly next door, a wider driveway. These are across the street. This is two houses down with also a larger driveway, which wraps around the back to the garage.

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This property is surrounded by Route 22, which has no parking within the area, and Leewood Drive, which has no parking for at least a couple of blocks from this home.

Having said that, let me go to the Board for questions or comments. Mr. Cahalin?

MR. CAHALIN: None.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Nurzia? Mr. Nurzia?

MR. TUDISCO: He might be muted or something.

MR. NURZIA: None.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: Nothing.

THE CHAIRMAN: I have nothing at this time. I make a motion to open the public hearing on this matter; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(AYE)

THE CHAIRMAN: Mr. Tudisco.
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MR. TUDISCO: I'm checking right now.

If there are any members of the public who would like to address the Board, please raise your hand.

Mr. Chairman, I don't see any members of the public wishing to address the Board on this application.

THE CHAIRMAN: Having been informed that there is no one, I make a motion to close the public hearing on this matter; is there a second?

MR. NURZIA: Second.

THE CHAIRMAN: Mr. Nurzia. All in favor.

(AYE)

THE CHAIRMAN: Back to the Board. Mr. DeMarco?

MR. DE MARCO: Nothing.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Nothing.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: None.

THE CHAIRMAN: Mr. Cahalin?

MR. CAHALIN: Nothing.

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THE CHAIRMAN: I have nothing. Again, your presentation addresses the five part test, particularly the character of the neighborhood. I make a motion to adjourn this matter for Resolution at the next meeting; is there a second?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. All in favor.

(AYE)

THE CHAIRMAN: Mr. Iannacito --

MR. IANNACITO: Thank you.

THE CHAIRMAN: You're welcome. The last item of new business, number 10, 20-31, 16 Greenmeadow Road. Is that you, Mr. Iannacito, as well?

MR. IANNACITO: Yes.

THE CHAIRMAN: This is an area variance to construct and in-ground swimming pool and expand an existing patio.

MR. IANNACITO: Good evening, again.

My name is John Iannacito, I'm an architect, and I'm representing Ms. Michelle Viglione, the owner of the subject property. We are...

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requesting area variances for an in-ground swimming pool and patio expansion at the rear yard of 16 Greenmeadow Road.

We are requesting four area variances for the pool and the patio. The first is for the impervious surface coverage. The allowable coverage is 2,500 square feet and the proposed is 2,579 square feet. The second is for the rear yard setback to the pool, where the proposed is 4 feet and the required is 10 feet, a deficiency of 6 feet. The third variance is for the side yard setback to the pool, where the proposed is 4 feet and the required is 10 feet, a deficiency of 6 feet. The fourth variance is for the side yard setback to the pool equipment, where the required is 5 feet and the proposed is 3.5 feet, a deficiency of 1.5 feet.

The proposed pool will not have any adverse effect on the neighborhood. It is located in the rear yard, and it is well screened from the neighboring properties. The pool will be located between two existing detached garages, one on this property and then...

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one on the adjacent property. Also, the rear yard of the property abuts the school playground, which will be screened with a fence and landscaping.

MS. UHLE: John, we're not seeing your screen.

MR. IANNACITO: You're not?

MS. UHLE: No.

MR. MILLER: We're seeing the Leewood picture.

MR. IANNACITO: Okay. How is that?

MR. CAHALIN: Much better.

MR. IANNACITO: Sorry about that.

Here is the site plan showing the location of the pool here. I won't go through all the variances again, but it's the rear yard setback, the side yard setback, impervious coverage, and here is the pool equipment on the side of the house where we need the side yard setback.

The pool is located at the rear yard, and will be located between adjacent detached garages. Here is the existing garage on this property, and then there's another garage right...
here on the adjacent property. Then along the
back, the property abuts the school playground.
Here are some photos showing the rear yard.
Here is the detached garage. Can you guys see
this?

MR. MILLER: No.
MR. IANNACITO: How about now?
MR. CAHALIN: Yes.
MR. IANNACITO: Here is the rear yard
where the adjacent property -- this is the
detached garage on the adjacent property.
Here's an existing 6 foot fence between the
property and the school playground. Then here
is the existing detached garage on this
property. So the pool will be set within that
area that will be screened by the two garages
and the fencing along the back.
That's all I have for now. Thank you
for your time. I'm happy to answer any
questions.

THE CHAIRMAN: Thank you, Mr.
Iannacito.
We'll go to the Board. Mr. Cahalin,
any questions or comments?

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MR. CAHALIN: None, thanks.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: No.
THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: None.
THE CHAIRMAN: Mr. DeMarco?
MR. DE MARCO: Nothing, thanks.
THE CHAIRMAN: I don't have anything
at this time.
I make a motion to open the public
hearing on this matter; is there a second?
MR. CAHALIN: Second.
THE CHAIRMAN: Mr. Cahalin. All in
favor.

(AYE)

THE CHAIRMAN: Mr. Tudisco.
MR. TUDISCO: I will check the list.
Does anyone from the public wish to be heard on
this application?
Mr. Chairman, scrolling through the
list of attendees, I don't see any individuals
seeking to offer comment.
THE CHAIRMAN: Okay. Being informed
that there are none, I make a motion to close

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the public hearing on this matter; is there a
second?
MR. CAHALIN: Second.
THE CHAIRMAN: Mr. Cahalin. All in
favor.

(AYE)
THE CHAIRMAN: Back to the Board. Mr.
DeMarco?
MR. DE MARCO: Nothing.
THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: Nothing.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: None.
THE CHAIRMAN: Mr. Cahalin?
MR. CAHALIN: Nothing.
THE CHAIRMAN: Nothing on my end.
Your matter has been marked submitted, we've
reviewed your answers to the five part test,
and I make a motion to adjourn for Resolution
at the next meeting; is there a second to my
motion?
MR. CAHALIN: Second.
THE CHAIRMAN: Mr. Cahalin. All in
favor.

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(AYE)
THE CHAIRMAN: Thank you, Mr.
Iannacito.
MR. IANNACITO: Thank you, guys. Have
a great week. Nice seeing everyone.
THE CHAIRMAN: You too. The last item
on our calendar tonight is old business, this
is number 11, 19-42, this is 5 Ray Place.
A couple of notes of order. This
afternoon, the Zoning Board of Appeals received
a petition in opposition to the application.
That petition has been marked submitted and is
part of the public record in this matter.
Just to remind the viewing public
where we left off at the last ZBA meeting, the
applicant was asked to return to address issues
related to the proposed building height only.
I just want to focus the attention of the Board
and the public on this, because the matter now
is a third time before Zoning Board, it's been
before Planning I believe four times, Mrs.
Uhl; is that correct, four times?
MS. UHLE: Yes. It will return to
Planning.
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THE CHAIRMAN: Okay. Continuing my commentary if the matter -- if it's a denial, it's a denial. If it's approved, it will return to Building and Planning. There are issues that have come up which are really more pertinent to Planning, but have been addressed as it relates to the tests for traffic, for parking, for certain aesthetic, for water runoff. Those matters are not before us right now. The applicant is going to supplement their application with some visual as it relates to the height. So let me turn that over to the applicant, please.

MR. VOGEL: Good evening, Mr. Chair, members of the board. My name is Ed Vogel from Warshauer Mellusi Warshauer Architects. Is everyone hearing me okay?

THE CHAIRMAN: Yes.

MR. VOGEL: Great. With me tonight is Rick Bohlander from JMC Site Civil Engineering, and Mr. John Saraceno from Augustus Development.

As you stated, we are here to continue our hearing from September 8th. Last meeting, DINA M. MORGAN, REPORTER

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It was asked that the applicant provide further visuals as it relates to height. Along with JMC, we will be presenting two global site sections and three perspective stills from the 3D animation that we showed last meeting.

If we could move to the next slide, Rick. So this is a site section, the first global site section that we'll be showing you. These sections were developed by using field survey data, GSI data and The Enclave existing drawings, which we received from the Town archives.

Here we have a site section that runs east to west. If you could follow the cursor, the line is shown on the site plan or the aerial views. We'll then be looking in a southerly direction. So if we can focus at the top drawing, from left to right you will see that we start at White Plains Road on the left with the roadbed, and then further along White Plains Road are some buildings, the two parking fields, and then the next tannish looking building in the background here would be the DeCicco's Supermarket. The darker brown

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1. south or up Ray Place. You can see the CVS in
2. the foreground on the left, 5 Ray Place on the
3. left, and across the street is The Enclave.
4. Our second slide, our perspective view
5. is from the intersection of Brook Street and
6. White Plains Road, and the foreground is the
7. parking lot, CVS, you have 5 Ray Place, and the
8. top of The Enclave.
9. Then our last slide is from White
10. Plains Road looking westerly at the subject
11. property being 5 Ray Place. You could see the
12. parking lot, existing vegetation between the
13. subject property, and the parking areas. I
14. would also like to note here that in the
15. perspectives, they demonstrate that the
16. bulkheads are not truly visible when you look
17. at it perspective, but they were requested in
18. elevation in the site sections for comparison.
19. This completes the presentation on the
20. visuals. We do open this up for comments and
21. questions.
22. THE CHAIRMAN: Thank you for your
23. presentation. If you don't mind, if you can
24. just flesh out for the public the purpose of
25. DINA M. MORGAN, REPORTER

1. these bulkheads, please.
2. MR. VOGEL: The purpose of the
3. bulkheads for 5 Ray Place is two stair towers
4. and an elevator. The reason for this is, is
5. that the roof is being used as an amenity for
6. the residence and there is a roof garden. So
7. the two stairs are for egress and the elevator
8. is for access. The three bulkheads in total
9. come to about 690 square feet, which is
10. approximately 9.4 percent of the building floor
11. plan. So they are relatively small in area,
12. but they are elements that are above the roof
13. surface.
14. THE CHAIRMAN: Okay. So thank you
15. very much for your concise presentation, and
16. for, more importantly, addressing the Board's
17. concerns because over these months the
18. application -- although I don't speak for the
19. Board -- the feeling has been that the other
20. variance elements were di minimus, and the
21. focus has really been on the height and the
22. elevation issue. There seemed to be some
23. question, certain for your protect, and how it
24. fits in. This really, for me, answers all of
25. DINA M. MORGAN, REPORTER

1. those questions. I appreciate that part of
2. your presentation. Again, just to remind the
3. viewing public and whoever is going to be
4. speaking on this, that four floors are as of
5. right. You wouldn't even need to be here.
6. What we're really talking about is that
7. additional give or take a couple of feet
8. because of the bulkheads and the fifth floor.
9. I appreciate your presentation and
10. supplementation. I'm going to go to the Board
11. now and see if they have any comments or
12. questions. The public hearing continues to be
13. open on this, so that will be after the Board.
14. Mr. DeMarco, do you have anything?
15. MR. DE MARCO: Nothing, thanks.
16. THE CHAIRMAN: Mr. Nurzia?
17. MR. NURZIA: No.
18. THE CHAIRMAN: Mr. Miller?
19. MR. MILLER: No.
20. THE CHAIRMAN: Mr. Cahalin?
21. MR. CAHALIN: I want to thank the
22. applicant, the cross sections were very, very
23. helpful. To me, they just reinforce that two
24. of the three cross sections, this thing will be
25. DINA M. MORGAN, REPORTER

1. highly, highly out of place with the height.
2. So that's my comment.
3. THE CHAIRMAN: Thank you, Mr. Cahalin.
4. The public hearing has been open, so, Mr.
5. Tudisco, I'm going to have you recognize those
6. who would like to speak.
7. I will mention this, the petition was
8. submitted as part of the public record, and I
9. would ask that if there are members of the
10. public who would like to be heard, that they do
11. limit it particularly to the supplemental --
12. although they are free to speak on the variance
13. application in its entirety -- but I would also
14. like to avoid duplicative commentary because,
15. again, we don't want the meeting to go on in
16. perpetuity since some of these comments seem to
17. be duplicative. Mr. Tudisco, please proceed.
18. MR. TUDISCO: Mr. Chairman, at this
19. moment, I see three hands. I'm going to go
20. to -- four hands now. I'm going to go to a Mr.
21. John Rapaport, and I'm going to invite you to
22. un-mute yourself and address the Board. Please
23. give your name and address to the Board.
24. MR. RAPAPORT: Hey, John Rapaport.
25. DINA M. MORGAN, REPORTER
Thank you so much. This is a great hearing and you're doing a great job. We are 21 Ray Place, right next to this development. We're in the parking lot that's now fenced in. We'll see what happens. I don't see anything showing what it looks like from our parking lot, which is next to this property, as it relates to the height. Maybe Mr. Vogel can show of the three that they looked at it, when we're looking at it from next to the lot which is next to DeCicco's, right, how do we see this property from that angle? I didn't see that. Maybe I missed it.

THE CHAIRMAN: What I'm going to do is, I'm going to let the public be heard and have the applicant reply to things like this. So if the applicant can make some notes on some of the things they are requesting and then respond later. I don't want to have a back and forth. It's difficult on a Zoom meeting. Would you like to add anything else to your commentary?

MR. RAPPAPORT: I think it's a beautiful development and, you know, this has DINA M. MORGAN, REPORTER

been empty for awhile. The Albanese Family owned it. We just want to know the impact right next to us, not across the street, that's all I'm saying.

THE CHAIRMAN: I appreciate your commentary. I appreciate you being pithy and to the point. If the applicant can make a note on this request, so you could address it once the public is done being heard on this.

Mr. Tudisco, next.

MR. TUDISCO: Yes. Mr. Fasciglione, I'm going to invite you to un-mute yourself and address the Board. Please give your name and address.

MR. FASCIGLIONE: Good evening, Mr. Chairman and members of the ZBA Board. My name is Michael Fasciglione. I live at 43 Woodruff Avenue in Scarsdale. I would like to make a few quick comments basically with reference to the height variances that we have been discussing.

At the last meeting, I made mention of two variances, number 8 and number 9, both which make reference to the 1 and 2 family DINA M. MORGAN, REPORTER

residences that are within 150 feet of this project. The fact that the maximum height allowable by law is 40 feet and this project is 64.6 feet, is quite a difference in the height. Secondly, the number of stories that are allowed within 150 feet of the one family residences, my estimation that the variance request for a 4 story whereas the building is 5 stories, that's the variance. The law states that 2.5 stories is permitted. That's a hundred percent increase. I realize that the variances that they're discussing within the 150 feet refer to that green buffer zone up at the top of the hill; however, my contention is that the private homes on Brook Street at the foot of Ray Place are more severely impacted by this project since that is where the 5 story portion of the building is and that is where these homes are. I just want to make that comment.

Secondly, again, I'm going to refer to the variance number 3, which is the bulkhead height being requested of 64.6 feet where 55 feet is permitted by law. I stated at the DINA M. MORGAN, REPORTER

last meeting on September 8th, that this proposed structure is on a very visible incline, and to demonstrate this, I was going to ask Mr. Vogel if he could display some of the renderings that he just showed. Would it be possible to go back and show the Global Site Section D-D?

THE CHAIRMAN: Mr. Fasciglione, what we will be doing -- I'm sorry to interrupt you -- what we will doing is, the applicant will address these matters after the public has been heard. He's making notes, and he will address the matters. I want to avoid the cross talk because, again, it's a little different on Zoom than it is in person. So please proceed.

MR. FASCIGLIONE: Going forward, what I would like to see is that rendering Section D-D, so I could discuss the fact that if you were to look at the existing CVS building, the top of that building basically as a site line represents the bottom of the 5 Ray Place projected project. My contention is, I would say that that CVS building -- I didn't measure it -- being about a story and a half high, is a DINA M. MORGAN, REPORTER

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<td>1</td>
<td>minimum of 20 feet high. What I’m contending</td>
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<td>is that building, although it is 64.6 feet</td>
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<td>high, it’s construction area, the visual height</td>
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<td>of this building, you have to add the 20 feet</td>
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<td>of the height of the CVS building, making this</td>
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<td>building possibly 85 feet tall from the visual</td>
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<td>standpoint.</td>
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<td>If I may, I would like to just ask Mr.</td>
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<td>Vogel if he could switch the photographs, the</td>
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<td>10</td>
<td>global shot number 3, which shows you the view</td>
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<td>11</td>
<td>from White Plains Road. That particular</td>
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<td>view -- there it is -- that is number 3, we’re</td>
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<td>13</td>
<td>virtually standing on White Plains Road, were</td>
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<td>you to look up at this building from that</td>
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<td>position, adding the visual height of what the</td>
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<td>CVS building represents, this building is going</td>
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<td>to look 85 feet tall. That’s almost 8 stories</td>
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<td>high. It’s just totally unacceptable from my</td>
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<td>point of view. It really is just much too</td>
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<td>20</td>
<td>large for the area that it is in.</td>
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<td>Being brief, in conclusion, I’m again</td>
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<td>going to say that this project is much too</td>
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<td>large and overbearing, and should definitely</td>
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<td>not pass the five prong test for granting this</td>
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<td>1</td>
<td>variance, as it assuredly will cause an</td>
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<td>undesirable change to the neighborhood, and it</td>
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<td>will be detrimental to our neighborhood.</td>
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<td>4</td>
<td>Thank you very much for your time and</td>
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<td>5</td>
<td>have a good evening.</td>
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<td>6</td>
<td>The CHAIRMAN: Mr. Fasciglione, thank</td>
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<td>7</td>
<td>you for your presentation. Mr. Tudisco.</td>
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<td>8</td>
<td>MR. TUDISCO: Yes. There is an</td>
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<td>9</td>
<td>attendee named Shawn. I am inviting you to</td>
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<td>10</td>
<td>un-mute your microphone and address the Board.</td>
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<td>11</td>
<td>Please make sure you give your full name and</td>
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<td>12</td>
<td>address to the Board.</td>
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<td>13</td>
<td>MR. CAMRA: Can you hear me?</td>
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<td>14</td>
<td>THE CHAIRMAN: Yes.</td>
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<td>15</td>
<td>MR. CAMRA: This is Sean Camra (Ph.),</td>
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<td>16</td>
<td>I spoke to you before, at 24 Ray Place. A</td>
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<td>17</td>
<td>month ago, we had heard about this a couple of</td>
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<td>18</td>
<td>days before the meeting, and we were pretty</td>
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<td>19</td>
<td>shocked. Actually, the whole building was</td>
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<td>20</td>
<td>shocked because we never received a notice. I</td>
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<td>21</td>
<td>don’t know if that’s a legal thing where we</td>
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<td>22</td>
<td>have to receive a notice because we’re only</td>
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<td>23</td>
<td>about 40 feet away from where that building is</td>
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<td>proposed to be built. No one in the building</td>
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<td>1</td>
<td>got a notice of anything that was going on. We</td>
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<td>actually came late, and we only came to the</td>
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<td>3</td>
<td>second meeting.</td>
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<td>4</td>
<td>So in those four weeks, we did a</td>
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<td>5</td>
<td>little research ourselves, and, you know, the</td>
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<td>6</td>
<td>first thing we would like to know is, was there</td>
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<td>7</td>
<td>a full environmental study analysis done.</td>
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<td>That’s the first thing we would love to know.</td>
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<td>The second thing we would like to</td>
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<td>know, is there any potential blasting that</td>
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<td>would affect any of the structures that are</td>
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<td>over here?</td>
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<td>13</td>
<td>We would also, because we came so late</td>
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<td>14</td>
<td>to the game and no one was alerted, especially</td>
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<td>15</td>
<td>just being across the street, I’m sure you’re</td>
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<td>just trying to get that in there, but we would</td>
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<td>17</td>
<td>like to do our own detailed traffic and safety</td>
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<td>18</td>
<td>analysis to see where it is. Now that</td>
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<td>DeCicco’s is open -- and I know John and Joe</td>
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<td>very well, DeCicco -- the parking lot is</td>
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<td>completely filled. Even yesterday, they had an</td>
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<td>18 wheeler tractor trailer, they had to shut</td>
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<td>23</td>
<td>down the whole street because now it’s going up</td>
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<td>24</td>
<td>and down the street, they had to shut down the</td>
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<td>1</td>
<td>top and the bottom of it. Many of the</td>
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<td>residents are going to get together here, and I</td>
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<td>don’t mean to be a pain in the neck, but we</td>
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<td>have to try to figure out and get our own</td>
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<td>5</td>
<td>sponsorship or attorney to figure out exactly</td>
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<td>6</td>
<td>what it going on, because we think this thing</td>
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<td>7</td>
<td>should be delayed and we should figure out how</td>
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<td>this is going to impact our building as well.</td>
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<td>I don’t know if anybody comes up the</td>
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<td>vertical of the driveway -- the gentleman that</td>
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<td>11</td>
<td>was just speaking -- the vertical on Ray Place</td>
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<td>is probably one of the steepest hills in all of</td>
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<td>Eastchester. I had asked one of the real</td>
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<td>14</td>
<td>estate people that are around here, a real</td>
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<td>15</td>
<td>estate attorney. If you look at the steepness</td>
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<td>on this, and you’re going to be bringing in</td>
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<td>whatever it is, the construction and the beams</td>
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<td>18</td>
<td>and everything else that is going on, we have a</td>
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<td>19</td>
<td>few accidents every year when it’s going up and</td>
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<td>20</td>
<td>down this hill because of the steepness. You</td>
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<td>should really just take a good look at it.</td>
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<td>We took -- I know that Bill today had</td>
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<td>brought over a petition with about 200 names,</td>
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<td>and if Covid wasn’t there, we probably would</td>
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have packed Town Hall to come over there and talk about what was going on. People were completely blown away and shocked when you showed them this picture that’s up there right now of what it’s going to look like compared to CVS, and to take away all that forestry and all those animals that live there. This is like Godzilla coming out of the trees and going next to I don’t even know what.

The first thing you had said, that first person, you had said, oh, it’s great, it conforms, and it helps the aesthetics of Eastchester. This doesn’t conform in Eastchester at all. It probably conforms more downtown New Rochelle or White Plains. This doesn’t conform to Eastchester. This looks like a -- it’s a beautiful building, but it looks like you’re putting a Holiday Inn inside of Eastchester next to CVS and where all the other buildings are probably 3 and a half, 2 and a half feet, or 4 feet.

Also, on top of that, this isn’t even going to be ownership of condominiums or townhouses, this is going to be a rental.

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Ray Place. I would like my attorney, Richard, to be speaking for me since he’s on the line. He registered.

THE CHAIRMAN: Do you want to make any comment before we move on to the next speaker?

MS. GABRIELE: No, I’ll just have my attorney speak for me right now.

THE CHAIRMAN: Mr. Tudisco, if you want to un-mute her attorney.

MR. TUDISCO: Okay. I assume that is Richard Gabriele, so I’m going to -- Mr. Gabriele, if you could un-mute yourself and address the Board please.

MR. GABRIELE: Sure. I just un-muted myself. Can you hear me?

MR. TUDISCO: Yes.

MR. GABRIELE: My name is Richard Gabriele. I’m representing my mother and sister, who live at The Enclave. I just learned about this recently myself.

I want to reiterate one of the comments made by Sean, my sister and my mother never received notice of this application, as required by the Town’s own rules. So for that...

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reason alone, it should be further adjourned so they can obtain another attorney, should they want to do that, to do a further review of the materials submitted. So that's the first point.

The second point is, I would like to briefly go through the five factors that are set forth both in the New York State Law and in your own Town Code. If you look at them, it seems pretty clear that the developer doesn't come out on the positive end of any of them.

For various reasons, this building is going to have a negative effect on the physical conditions in the neighborhood, they're going to change the character of the neighborhood. There are basically two reasons for that.

Number 1, as Mr. Fasciglione and Sean have said, the building is just way too high. If you look at the photographs that were presented today and also some that were presented at the initial hearing, you take the view from White Plains Road, this is just going to completely blot out the skyline when you have that perspective. As Mr. Fasciglione

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said, it's really got the practical effect of an 80 foot building when you look from that perspective. It's also going to destroy the view of the skyline of the people that are living in The Enclave.

The second problem is the traffic and parking problem. As you all know, I presume, Ray Place is a very narrow street, one lane in each direction. The turning radiuses are going to be difficult if there are people coming into the street from both sides. It's a street with a very high grade. There are significant traffic circulation and parking problems that are going to arise. I haven't seen any parking or traffic study in the Zoning Board record, which in and of itself is highly unusual. I did find a letter that was submitted in connection with the July hearing from a Rocco Salerno, that said any parking overflow is going to be taken care of by the parking lot up at DeCicco's, but I don't believe that there's been any evidence submitted by the supermarket, that they be willing to have any residents from the private development use their parking lot

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both for reasons of capacity and for reasons of insurance. As I believe Sean said, that parking lot is full. So there's been no evidence that that would be able to accommodate any parking overflow that's sure to happen.

Another one of the five factors is the substantiality of the variances. As you know, you could consider both the size of the individual variances, as well as the cumulative effect of them. They're seeking 10 variances, which is a substantial number in and of itself. Even if you look at the individual variances, the percentages are huge; 48 percent, 60 percent, 43.8 percent. I have represented the Zoning Board on Long Island for the last 35 years, I don't think I've ever seen any application with this size variances, and I would be very skeptical -- I can't recall any Appellate Division decision that has approved variances of this size. They're just huge.

The final factor is self-created -- another factor is self-created hardship. This was a recently purchased property. The developer well knew what the market was. He

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now comes in front of the Board and says, I've got to build a 5 story building instead of a 4 story building because the building is not financially viable at 4 stories. Well, that's his problem. He should have done his homework. It's not a building that's he's owned for the last 50 years or a parcel that he's owned for the last 50 years where factors have changed. This is something he bought within the last year. He knew exactly what the rental rates were, and he chose to pay a certain price. If he overpaid for it, he shouldn't try to put the onus of that mistake on neighbors and adjoining residents by decreasing the value of their units and by decreasing the aesthetic values of their apartments.

Alternatives. I've seen nothing in front of the Board that's been presented in terms of alternatives. Obviously, a very clear alternative is to build a four story building. I don't see anything that shows that that would not be plausible.

Finally, the test which this Board has to make is the weighing of the advantage to the

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developer as opposed to all those other disadvantages in terms of traffic, in terms of parking, in terms of height, in terms of safety to the adjoining residence. The only benefit here that the developer can claim is, that he could make more money if it's a 5 story building rather than a 4 story building. Every developer could claim that. There is just no benefit to the community and no benefit to the developer, other than, you know, an increase in profit. What's even more galling is that although the developer is relying on this claim for his benefit, he's provided no financial evidence, that I've seen, to the Board saying, this is how much I'll make if it's a 4 story building, and this is how much I'll make if it's a 5 story building. There is absolutely no evidence to show or document this benefit that this developer is claiming.

So for these reasons I think, number 1, the hearing should be adjourned again so that the neighbors have a further opportunity to notify more of the community so they have an opportunity to obtain a consultant if they want.  

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THE BOARD was to proceed to make a decision for all the reasons I just stated, I think the variances should be denied. Thank you.

THE CHAIRMAN: Thank you for your presentation. Mr. Tudisco.

MR. TUDISCO: Yes, we do have some more. Hold on. There was one more hand. Mr. Sweeney, are you out there? Do you want to be heard? Mr. Sweeney had his hand up and it was retracted. Mr. Sweeney, I'm inviting you to un-mute yourself. Go ahead, Mr. Sweeney, un-mute yourself and please address the Board.

MR. SWEENEY: Good evening, board members. Thank you for the opportunity to address the Board. I kind of agree with the folks who spoke previously and the attorney who spoke previously, Mike Fasciglione and Sean. We come to the point tonight, that we have a very serious problem on our hands. More serious than height, more serious than all the nice drawings that we have in front of us. This developer has been working with the Town for over a year. He's been working with the

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THE CHAIRMAN: You're correct, they aren't knew. They've been addressed in Planning at four meetings, and our expert at the last meeting explained what -- I'll use the lay person vernacular -- 3 to 1, and how water runoff is being treated. It's not even an issue before us. We've given broad latitude on this, for lack of a better term, testimony, for the third meeting. Again, we're going sideways in areas that have no pertinence whatsoever. So I am going to ask you to move on, please.
MR. SWEENEY: I think where you are tonight, at least in my impression, is that we're in a very unhappy place. Knowing you were attempting to maybe to move this thing forward tonight, I don't think there's one iota that you could move off the center here. There are too many questions that are still unresolved. The attorney kind of addressed the five steps that you need approved if this is a valid application. We're not anywhere near there.
I respectfully ask that you defer the decision on this particular application until.
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we have community input. Lots of people are interested in what's going on here. You have a condominium right across the street. They bring up the possibility that Ray Place cannot handle the two way traffic. By the way, this building sits on top of two significant areas where 55 foot trailers are going to be backing into CVS and they're going to be backing into DeCicco. They're not going to be done during the day, they're going to be done at nighttime. So this doesn't seem to me to be a well thought out proposition.
I ask respectfully, take it back to the Board, take it back to the design, and ask why the developer needs 5 stories in order to make this work. That's my opinion.
THE CHAIRMAN: Thank you, Mr. Sweeney.
Mr. Tudisco, any further speakers?
MR. TUDISCO: Hold on one second. I do not see any raised hands at the moment. Oh, wait, there's another one now. Hold on. Mr. Fioravanti, I'm inviting you to un-mute yourself and to address the Board. Please give your full name and address.
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1 hill. It is the highest point here in
2 Eastchester. It is just not right to build
3 something that tall in this neighborhood.
4
5 Lastly, I know everyone spoke about
6 variances, we've spoken about the variances,
7 I'm not going to go into any of that right now,
8 but realistically the people in this area, the
9 homeowners and taxpayers, and we can't even
10 have a proper hearing, only by Zoom, if this
11 was an open hearing, you would have many, many
12 people coming in. You might have a lot more
13 people voicing opinions that more than just the
14 speakers that spoke tonight about other issues
15 they have. I even had some mothers that said
16 the school systems in Eastchester are already
17 too crowded, we don't need more kids in the
18 school systems. That's another little topic
19 I'm bringing up as well.
20
21 In closing here, I agree with all the
22 speakers before, even Mr. Sweeney, this is a
23 democracy, everyone should be heard, as we are
24 coming up on one of the biggest elections ever.
25 So he has a right to speak as well.

Lastly, I was saying, we did submit
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1 the letter to you guys. Hopefully, you guys
2 read the letter. The letter really has an
3 impact on what our concerns are. I also want
4 to get proposals as well. That hill where 5
6 Ray Place is going to be built, it should not
7 be built for a tall structure. I even said,
8 maybe you could turn it into a park. There are
9 no parks around here for kids to play, just two
10 baseball fields. It would have a great impact
11 also on the neighborhood for the kids and for
12 people to congregate together.
13
14 In closing, hopefully you guys not
15 just look at just variances, which I understand
16 are important, but there are a lot of
17 stakeholders in this neighborhood. All the
18 owners around here are residents. I can't tell
19 you how many oppose this. They don't like it.
20 They may take it up with other portions at Town
21 Hall. So please realize that we have other
22 opinions as well. So please vote no on this.
23
24 I appreciate your time. Thank you very much.
25
THE CHAIRMAN: Thank you for your
presentation, Mr. Fioravanti. Mr. Tudisco.

MR. TUDISCO: Are there any other
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Sweeney had attended pretty much from the beginning of that process. They also met on May 28th, 2020 and June 25th, 2020. Those were remote virtual meetings. At that time, the Planning Board did do an environmental review that looked at sanitary sewer issues, storm water management issues, traffic and parking, issues. The applicant was required to have their own engineers prepare reports. The Planning Board retained a civil engineer to review issues related to sanitary sewer and storm water management. We also retained a traffic engineer to review issues related to traffic and parking.

The Planning Board got to a point where they felt that the applicant had sufficiently addressed those concerns to an extent that it could be forward to the Zoning Board for consideration of the areas variances. That being said, if the Board were to approve the area variances, it would still have to go back before the Architecture Review Board for review of the aesthetics, but also back to the Planning Board to look in more detail at those

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issues, a lot of the issues that residents had raised with regard to potential construction impact, again, traffic and parking, sanitary sewer, etcetera. In receiving a number of phone calls from residents from The Enclave, I did say that I would ask the applicant, since it has been such a long time since the applicant first appeared before the Planning Board, to essentially do a full presentation again so that people feel that they could really participate in those discussions related to all of those issues. But those are really issues that are being and have been addressed by the Planning Board, whereas the Zoning Board is looking specifically at the areas variance.

THE CHAIRMAN: Thank you, Mrs. Uhle. MR. TUDISCO: Mr. Chairman, based upon what Ms. Uhle has said and what we’ve all been witness to, I think it’s important for the members of the public who are watching at home who may not be on the Zoom call, that this -- there was an allegation that this somehow secretly been met with the Building Department and the public is just now finding out about

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this, when there have been a number of meetings, both on the Planning Board side multiple meetings that were all open to the public. This has been transparent and open process at the Planning Board stage and at the Zoning Board stage. Whether or not this application is denied or approved, those allegations are completely unjustified.

THE CHAIRMAN: Mr. Tudisco, counselor, thank you for that. I appreciate you emphasizing that. I didn’t think it actually needed to be emphasized, but it’s good that you did. I had not heard that from anybody, but any opinion that resembles that is nonsense. We’ve been hearing from the public since July officially. We’ve heard this matter and opened the public hearing in July, and we heard the public in September, we heard the public in October, and we’ve had submissions throughout. That comes up a lot, people say that, but I appreciate your commentary.

At this time, I would like the applicant to comment and reply to the commentary that was made by the public, and

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grades, and this part of the building is principally on the upper tier or the upper parking lot. Therefore, the height of that portion of the building is considered 4 stories. Granted, 2 and a half as a setback regulation is what's requested in the zoning and we are at 4. That's clearly stated in the zoning application.

From here, I would like to continue through this set. One of the first question was the south elevation and what that would look like to the property owner to our south. That is going to be the lower elevation here on the plan. As you can see, it is a four story elevation. We have a base, we have a body, then we have a top or a crown. So we're straddled by horizontally, and then we're also punctuated vertically by holding some strong corners, which were spoken about earlier.

I think that covers some of those elements. I would like together back, if you don't mind, Rick, to the global site sections. In particular, there were some comments regarding grade and height of building. This

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site section here certainly shows that there are some retaining walls. The CVS does come back toward our property at the north line and they are tucked into the grade. We're springing from the grade upward. So this does represent what's occurring, and it does make a logical progression as one would move up the hill.

The second element that I would like to mention in here is that the existing terrain and parking fields are such that we've taken great care to situate the building for ingress and egress of vehicles, both at the lower level and the upper level. And to mitigate as much blasting as possible, we've sited building at those planes so the project itself would not disturb and cause detrimental effects to the surrounding terrain. That's part of the reason for the height.

I would also like to ask to run the animation at this point one more time for everyone in the audience. When we talk about perspectives and what you would see, the animation, certainly the three dimensional

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the fact that we have another project like this similar in Pleasantville. Out of the 16 units, there are literally one family that has a child in the school system. Most people generally are either seniors who have downsized who want to stay within the community and want to be able to have a nice apartment to live in as they down size, and there are others that are young professionals or young couples who are married or singles who want to live within a community or nearby and can’t afford to buy a home at this point in time. In every community that we’ve gone into, there’s been a very strong need for this type of housing. In a lot of communities you have older apartments or you have two family homes that are occupied with a rental, and we found that the demand is tremendous and it’s serving a need for the community.

In terms of how we build, we’re not blasting. We worked with the conformity of the land. There will be some chipping with a jackhammer. In terms of the construction time frame, it will be over the course of, depending

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upon when we start, if we start in the spring or in the summer, we generally are able to complete a project like this where it has maybe still work going on but no heavy construction vehicles or something like that, no more than about seven to nine months is the construction period. Once the building is topped out, all the work is on the inside of the building, it minimizes the amount of vehicles going in and out. There is a need, and people should be aware of that. Thank you.

THE CHAIRMAN: Mr. Saraceno, thank you for your time.

MR. SARACENO, JR: This is the other John Saraceno. I would like to just add one thing.

THE CHAIRMAN: Please.

MR. SARACENO, JR: This is the second meeting in which I’ve heard that we intend or plan or using DeCicco’s as a spillover lot for parking. I don’t know where that came from. Our variance request is for two cars. Based on the information we have from our traffic and parking engineers, it’s even more than
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owners in the building, and everyone I spoke to did not know of it, did not receive a letter.

We would not say this if it wasn't the fact. If we received the notices, we would have been on this a lot earlier. So if they sent these notices, please show us the proof.

THE CHAIRMAN: It's part of a public record. Mrs. Uhle will explain that.

MS. UHLE: What I would like to say is, we'll absolutely double check the notice.

If it was not noticed appropriately, they will be required to re-notice. The burden for the notice is on the applicant. My understanding is the attorney did the notice. We did review the notices previously, but we will double check that there were no oversights. If it was not done appropriate, they would have to re-notice. Even if you were to close the public hearing tonight, they would have to re-notice and you would --

MS. GABRIELE: What does that mean if they re-notice, does this start from the building? This is the reason we got to the table so late. As Sean said, as my attorney

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said, we only knew about this at the last meeting. Now we would like to see the parking and traffic study that they did.

MS. UHLE: The one thing that I want to point out is the traffic and parking, etcetera, that is not something that was reviewed by the Zoning Board. As I indicated previously, there's still plenty of opportunity to review those issues if and when it goes back to the Planning Board.

If the Zoning Board were to deny the area variances, then the application will stop and either will be withdrawn or the applicant will have to make significant revisions to it. If they were to approve the area variances, then it will go back to the Planning Board where all those issues that you're concerned about will be discussed in more detail. So there is still an opportunity to address those issues.

MS. GABRIELE: As Mr. Cahalin said last time, 99 percent of the projects that pass the Zoning Board, get through. Yes, it goes back to the Planning Board, but the likelihood

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of something stopping there is not as likely as it stopping here. So I just want you to know, we wouldn't be saying this, no one has received a notice.

MS. UHLE: When I hear something like that, I really don't want to dismiss it until I can go back and absolutely check the record on that.

MS. GABRIELE: Please do. Like I said, I spoke to the prior president, and I've been on the board for four years, I served with the prior president, and we discussed that we've never seen it. The current president has not, and today I actually called the management company to confirm that he had not seen anything, and he had not. The number of owners that I actually talked to myself just to see if they got a letter. I didn't go through all of them because I was told by the current president of the board that he knows that nobody has received it. That's a very critical point because we would have been on this a lot earlier.

MS. UHLE: Okay.

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MS. GABRIELE: Thank you.

THE CHAIRMAN: Ms. Gabriele, thank you for your commentary. Mr. Tudisco.

MR. TUDISCO: Yes. Sean, I'm inviting you to un-mute yourself and address the board.

MR. CAMRA: One quick question. How much time do we have here before this goes to the Board or whatever it is?

THE CHAIRMAN: It's not a question of time. Let me answer that for you. We're a quasi judicial tribunal. We hear appeals. The people who come before us have been denied something in the Building Department, whether it's a fence, a deck, a shed, in this instance, certain items that go under the heading of area variances like parking or elevation or height.

We're hearing a very circumscribed legal issue as to whether we are going to grant them relief from the constraints of the Building Department. If we say yes, then they move on. There's this commentary that was made earlier that once it goes through the Zoning, 99 percent of these things go through. What that really means is that the since the

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variances were approved, the scale of the
project as it's approved will generally go
through, but as it has been approved. But
items like parking, the street-scape, the
sidewalk, water runoff, all of these other
items, water mitigation, are things that the
continue, that the Planning Board, which is the
lead agency, has heard enough to refer it to us
so that we make a decision on these variances,
and now it winding its way through. My point
is, the timing is -- we are hearing an appeal,
so it's not like -- let's say, for instance,
there's a resolution on November 10th, November
11th the shovel is not going in the ground. My
point is, that we're here to hear very
circumscribed legal issues that have very
specific legal tests that are applied to them.

Is there anything further that you
have?

MR. CAMRA: No. I mean, that's it.

Take it under advisement that Ms. Gabriele and
everybody in here, everybody is a professional
in this building. We all have our own
companies, we all have our own businesses.

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There was never a notice that was sent here.
We asked about it for awhile because we thought
something was happening. I hang out at Tutta
Bella across the street, all the landscaping
people, even the landscaper didn't know across
the street, he does half of Eastchester. It
was never sent over. Like I said, you should
come walk -- actually, your mother lives here,
so you could come and walk the street. She
didn't even know it was being built when I
spoke to her. Walk the street over here, take
a good look at it, because I'm telling you it is
a nightmare on the vertical of this
driveway. I know something is going to go up,
but 5 stories long with the bulkheads is
ridiculous. Something is going to go up, but
you can't put Godzilla job. Beautiful
building. Good job on the architect, good job
on the owner, good job on everything, but at
the end of the day, it's just too big. We're
going to make it known, just so everybody
understands that. We're going to make it known
in the next couple of weeks.

I appreciate your time. Thank you
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various factors. One of those factors is the
effect of the proposed application, the
proposed building on the neighborhood and on
the community. Issues regarding traffic and
parking have been raised. Your answer to that
is that the Planning Board made a preliminary
determination and you're going to send it back
to the Planning Board for further
determination. I don't see how you can reach
your determination without addressing that
issue and deciding that issue. If there are
legitimate concerns about parking and traffic,
and they relate to what effect the building is
going to have on the community, I think you
have to address that.

THE CHAIRMAN: Mr. Gabriele, I'm sorry
to interrupt you. I'm going to let you
continue because you are very cogent and on the
point, but I think you may not be aware that
they were addressed in the prior two meetings,
and we had both our traffic and parking
consultant, and we had our consultant as it
relates to the water runoff issue both here.

They both provided testimony to that effect.

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looking at, if you look at the test, they're
for as those specifically relate to the area
variances, and most of those area variances
relate to the building height, and then there
are some others with regard to the number of
parking, spaces, etcetera, which is why the
traffic engineer was here. Those were looked
at in more detail by the Planning Board.

THE CHAIRMAN: Mrs. Uhle, thank you.

Because I'm at the site, I'm at 24 Ray probably
at least once a week, I asked him to talk about
the effects of traffic, turning radius,
holidays, things like that. So it was address
and your point is well taken. It is factored
in. My commentary was that we've had two
meetings with these issues that impact on that
one part of the test, but we're here because he
wants to further his application as it relates
to elevation. So those issues had been
discussed and raised as it relates to, as
you're saying, the character of the
neighborhood and how it impacts the
neighborhood.

MR. GABRIELE: The only thing I would

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say then is that if they, in fact, didn't get
notice and those studies aren't part of the
Zoning Board record, while they may have been
part of the Planning Board record, that just
seems to be another reason to not make a
decision on this at this time, and let the
members of The Enclave and other residents have
an opportunity to review that and obtain their
own traffic and parking consultants if they
want.

THE CHAIRMAN: Mr. Gabriele, anything

further?

MR. GABRIELE: No, thank you.

THE CHAIRMAN: Okay. Thank you for
your time and for your presentation. Mr.
Tudisco, anybody else?

MR. TUDISCO: Yes. Charlie Galanack
and John Rapaport. Mr. Rapaport, I'm going to
invite you to un-mute yourself and address the
Board. Please give your name and address.

MR. RAPAPORT: Hey, John Rapaport
again, 21 Ray Place.

I just want to comment on the parking
issue because we do have a lot next door. We

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2. I've called this like a Phoenix -- I said this
3. last time -- if you look at Enclave right now,
4. it has trees in front of it, and it's almost
5. not visible from 22. This is going to be very
6. visible. It's out of character for our
7. neighborhood. It's not Garth Road. This is a
8. smaller community. These are the things that
9. the residents of the Town are trying to say to
10. the Board.
11. We've all lived here a lot of years,
12. and we see things happening and we always hope
13. that everything is happening for the best, but
14. I don't know if this is for the best. When we
15. talked about other things like this retaining
16. wall, the retaining wall itself now is going to
17. be increased by X amount of feet, maybe 15 feet
18. or so, and the builder is going to probably pay
19. for that, but my question last time was, who's
20. going to maintain it? If that wall gives in or
21. as they're constructing and it gives in, whose
22. responsibility? This is going to be another
23. possible problem that the Town is going to
24. inherit. These are things when it's going
25. through your sections, you should really -- I

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2. open. That's what I'm saying. Thank you.
3. THE CHAIRMAN: Thank you for your
4. time. Mr. Tudisco.
5. MR. TUDISCO: Okay. Mr. Galanack, I'm
6. inviting you to un-mute yourself.
7. MR. GALANACK: That sounds so strange,
8. to be un-muted. Good evening, everyone, Mr.
9. Chairman, fellow members of the board, and our
10. fellow Zoomers. Thank you for the time and
11. energy that you spend volunteering your time
12. for us citizens. I would like to start off
13. with the presentation. When we see the
14. presentation and they talk about CVS, how it
15. goes up to the retaining wall, well, the
16. building doesn't go exactly to the end of the
17. wall. When the building for CVS is there, it's
18. not that high. It's graduating going up on
19. Ray. I don't think this is affecting this
20. project at all, their property for Ray. With
21. the Ray property, if you look at the pictures
22. that they had demonstrated how high the
23. building is from as we were driving down on Ray
24. going around Brook Street, coming out to 22,
25. and then shooting the project itself, again,

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welcome, that's for sure. That's what I was
saying when they were talking about I believe
it was no left turn, that's when I talked about
a traffic control, just as we would have at the
other end of 777 of the development. We all
know what 22 looks like on a busy period of
time each day, and we know what Brook Street
looks like. You have all that traffic coming
from the Bronx River Parkway, coming over from
Yonkers, they cut across from Central Avenue, I
mean, it's a thoroughfare. It's like Mill
Road. I mean, busy streets.

When it comes to the height of this
building, I mean, and we were talking, you
know, it's so out of character.

It was mentioned about parking.
Perhaps the gentleman can also help us out
again and tell us the amount of residential
parking spaces they're proposing and how many
visitors. So that will also put everybody to
understand that there's enough parking so that
people from this site would never go over and
drive in DeCicco's area or on the street, taking
up spaces down there.

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always taken into consideration, that Robert's
Rules is just a parliamentary order to be able
have a meeting, because if you don't have
rules, you don't have order. I'm sure you
understand law and order.

What I have to focus on is this
application, because, otherwise, we would be
having seven, eight, nine hour meetings, and
there would be no one volunteering, and this
Board would not exist anymore. So instead of
having a variance, you would have to go to
court for everything.

The point is, the public is given a
very fair opportunity. I am allowing people to
comment second and sometimes third times on an
application when nothing new has happened.

I appreciate your time, Mr. Galanack.
What I'm going to do at this point is, I'm
going to go to the Board right now because I
want to go over a couple of things with the
Board. So thank you, Mr. Galanack.
So at this juncture, I would like to
tell the Board and see if they have enough
information or whether they're looking for

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additional or supplemental information.
Mr. DeMarco, do you have any
additional information that you’re looking for.
MR. DE MARCO: No, thanks.
THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: I just want some clarity
that the notices were sent out properly. Other
than that, I have all the information I need.
THE CHAIRMAN: Thank you. I’m going
to address that as well. Thank you, Mr.
Nurzia. Mr. Miller?
MR. MILLER: I have the information I
need, but, to be frank, I think by what the
people have said today, I think it would be
inappropriate to close the public hearing.
THE CHAIRMAN: Okay. Mr. Cahalin?
MR. CAHALIN: I agree with Mr. Miller.
THE CHAIRMAN: Okay. Mrs. Uhle, just
as a point of order, what I’m going to do --
this is somewhat irregular because our notices
are provided as a procedural requirement to
every application. So, Mrs. Uhle, tell me
about the verification of the proper
notification. I’m not sure why I’m going

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So I think because residents have raised this
issue, it’s a very valid issue for me to double
check.

If for some reason the property was
not properly noticed, the applicant would have
to re-notice. They would have to re-notice for
the Zoning Board, and they would have to
re-notice for the Planning Board.
THE CHAIRMAN: Thank you, Mrs. Uhle.
In furtherance of that, since at least a couple
of board members have indicated that they would
like to hear more, if it has to be a
re-notification, does that change the leaving
of the public hearing as open; does it need to
be required now?
MS. UHLE: Well, if the public notice
was not done properly, it would have to be
re-noticed. If you’re just saying that you
want to keep it open because you want the
public or board members to be able to evaluate
additional information, then you just -- I
think I’m not understanding your question.
THE CHAIRMAN: Okay. I think I’m
being -- I guess we all bring our experience to

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the Board, being an attorney, I may be a little
legalistic. My point is that, as you
mentioned, it’s very rare that we have any
issues of proper notification. So let’s assume
arguendo that there was some party or parties
that were not notified properly, if they’re
re-noticing, are they re-noticing for the next
meeting?
MS. UHLE: Yes, that’s what they would
do. The law says that the applicant is
required to hold a legal public hearing or to
participate in a legal public hearing. As long
as they notice for a public hearing and the
proper people are notified, then they could do
it for the next meeting or whenever they were
ready to notice. Again, I have no idea whether
there is a fault with the notice. Yes, they
would re-notice for the next hearing. Again,
I’m kind of confused what you’re asking because
what would the alternative be?
THE CHAIRMAN: The alternative would
be if there’s a re-notification, is the
application starting from the beginning?
MS. UHLE: Well, if there were a

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problem with the notice with the Planning Board, I guess you're right, they would go to the Planning Board first, then back to the Zoning Board again.

THE CHAIRMAN: That's my question because we're, by any accounts, again, taking the temperature of the Board, we're in the late innings of this game. I think the issue of proper notification, if it has to be re-noticed for Planning, that could be fatal in this application before us. We may be premature.

MS. UHLE: I want to clarify. I'm not really sure. I would need to check with outside legal counsel with regard to whether it would matter whether it was noticed at the Zoning Board, and then went to the Planning Board and was noticed again too. That I would want to clarify.

The point is, you're required to have a public hearing before the Planning Board, you're required to have a public hearing before the Zoning Board so that everyone could participate. As long as people are getting the opportunity to participate -- I want to check.

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with legal counsel whether the actually, you know, sequence, whether that makes a difference or not.

THE CHAIRMAN: Okay. A few things then. Firstly, it sounds like at least two members of the board, maybe more, want to have more of the public heard on this, so I'm going to leave the public hearing open on this. That will continue.

We're going to table and take under advisement the issue of whether there was proper notification and our outside counsel will advise us accordingly. At this point, what I'm going to do is see if any board members have commentary, and then I'm going to close the meeting. We'll start with Mr. Cahalin; anything?

MR. CAHALIN: Just, a lot has been said. I think it's prudent to keep the hearing open at this point. Another month doesn't change much in this project.

THE CHAIRMAN: Okay. Mr. Miller?

MR. MILLER: No. I agree with Mike's comments.

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got built, and people are now clamoring about
why hasn’t it been built, we approved this, we
want this in the neighborhood, when people
didn’t want it in the neighborhood.

My point is, that the neighborhood and
character of the neighborhood as a whole needs
to be taken into consideration. As I said, the
neighborhood has evolved over decades, and The
Enclave received four variances, including one
for height. Just keep that in mind when you’re
considering the character of the neighborhood
and how neighborhoods evolve.

Anyone else? Would the applicant like
to say anything before I close the meeting?

MR. TUDISCO: Before you do, Mr.
Chairman, just to let you know, I have three
hands up.

THE CHAIRMAN: They’re not going to be
heard tonight. We’re leaving the public
hearing open.

MS. UHLE: I would just like to say
one thing very quickly. In addition to
checking the notice, just for the people that
are listening or watching, they can contact me,

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or if you go back to the previous Planning
Board agendas and Zoning Board agendas, you’ll
have access to everything that was submitted by
the applicant. I’ll make sure that any of our
consultant reports are posted on line, along
with those applicant submissions. So if people
want to go back and review what has been
submitted to date, they can do that. If they
need to contact me to try to locate that
information, I would be happy to help them.

THE CHAIRMAN: Okay. Mrs. Uhle, one
more point of order, actually, before I close
the meeting. Even though, again, it’s not
before us specifically on these variances, do
you believe that -- should we have our traffic
and parking consultant available?

MS. UHLE: We did at the last meeting,
so you could certainly have them available
again, yes. It’s up to you.

THE CHAIRMAN: Fine. Thank you, Mrs.
Uhle. Would the applicant like to say anything
before I close?

MR. VOGEL: Ed Vogel, WMW. No, I do
not have anything further to add.

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THE CHAIRMAN: I wanted to give you
the courtesy because I allowed two rounds for
the public, and the Board has made several
comments, including myself.

Having said that, I’m going to make a
motion to adjourn this application, public
hearing being open on this matter, and adjourn
this to the November 10th meeting, which is our
next meeting, November 10th.

MS. UHLE: Alan, sorry to interrupt
you. I just want to be clear. What are you
asking the applicant to do when they return?

THE CHAIRMAN: Come back and be
prepared. The public will have an opportunity
to continue to be heard on this.

MS. UHLE: So simply they’re going to
be available to answer questions?

THE CHAIRMAN: Questions, correct.

MS. UHLE: Is there any additional
information required?

THE CHAIRMAN: There is no additional
information required. Again, we had spent some
time on the issue of notice.

I might as well just clarify that as

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well. I can’t speak for our attorney, Mr.
Tudisco, but commentary has to do with this --
it happens a lot, actually, where people
comment like the Board is meeting in secret
or -- that was really the edge of my
commentary, that this is a fully transparent
application. The application has been winding
its way through our community for over a year.
It’s had seven public meetings. That’s the
reason why I commented the way I did. The notice
aside, if a notice is defective, it’s
defective, that has to be addressed, but this
notion that somehow something is being done
secretly and being secreted through is
nonsense, and I’m going to repeat it. I said
it earlier, I’m saying it again, it’s nonsense.

My motion now is to adjourn our
meeting, and this will remain open to the
November 10th meeting. Is there a second to my
adjournment of this application?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in
favor.

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THE CHAIRMAN: Thank you to the applicant. I make a motion to close the meeting and adjourn it to November 10th; is there a second?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. All in favor.

(AYE)

THE CHAIRMAN: Thank you.

MR. CAHALIN: Goodnight.

MR. BOHLANDER: Thank you, members.

Goodnight.

THE CHAIRMAN: Goodnight, everybody.

(Meeting adjourned.)

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CERTIFICATION

STATE OF NEW YORK )
 ) SS.
COUNTY OF WESTCHESTER)

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

That the above transcript was taken from a videotape of the actual hearing. I was not present for such hearing. The videotape was taken and transcribed by me to the best of my ability.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of November 2020.

DINA M. MORGAN
Court Reporter