

TOWN OF GREENBURGH
PLANNING BOARD

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1. ROLL CALL
 2. ITEMS FOR DISCUSSION/HEARING

a) Case No. PB 18-12
Prestige Tae Kwon Do, LLC.
590 Central Park Avenue South
P.O. White Plains, New York

b) Case No. PB 17-37
Rojas Subdivision
16 Montana Place
P.O. White Plains, New York



3. ADJOURNMENT
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Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York 10607
July 18, 2018

B E F O R E:

WALTER SIMON, Chairman

KIRIT DESAI, Board Member
THOMAS HAY, Alternate Board Member
CHET WATSON, Board Member
MOHAMED AYOUB, Board Member
HUGH SCHWARTZ, Board Member

VIOLA TALIA FERROW, Board Member (Not Present)
MICHAEL GOLDEN, Board Member (Not Present)

ALSO PRESENT: AARON SCHMIDT,
Deputy Commissioner of The Department of
Community Development and Conservation
DAVID R. FRIED, ESQ.
First Deputy Town Attorney

BARBARA MARCIANTE,
Official Senior Court Reporter

1 CHAIRMAN SIMON: Good evening, and welcome to the
2 July 17 meeting of the Planning Board. Could you take
3 attendance?

4 BOARD MEMBER SCHWARTZ: It's July 18th.

5 DEPUTY TOWN ATTORNEY FRIED: July 18th.

6 BOARD MEMBER SCHWARTZ: Walter, it's July 18th.

7 CHAIRMAN SIMON: July 18th.

8 BOARD MEMBER SCHWARTZ: Yesterday was July 17th.

9 Sorry.

10 CHAIRMAN SIMON: July 18th, right?

11 BOARD MEMBER SCHWARTZ: Yes.

12 DEPUTY COMMISSIONER SCHMIDT: Kirit Desai?

13 BOARD MEMBER DESAI: Here.

14 DEPUTY COMMISSIONER SCHMIDT: Thomas Hay?

15 ALTERNATE BOARD MEMBER HAY: Here.

16 DEPUTY COMMISSIONER SCHMIDT: Walter Simon?

17 CHAIRMAN SIMON: Here.

18 DEPUTY COMMISSIONER SCHMIDT: Chet Watson?

19 BOARD MEMBER WATSON: Here.

20 DEPUTY COMMISSIONER SCHMIDT: Mohamed Ayoub?

21 BOARD MEMBER AYOUB: Here.

22 DEPUTY COMMISSIONER SCHMIDT: Hugh Schwartz?

23 BOARD MEMBER SCHWARTZ: Here.

24 DEPUTY COMMISSIONER SCHMIDT: Note for the record
25 that Board Members Michael Golden and Viola Talia Ferrow

1 are not present this evening. Thank you.

2 CHAIRMAN SIMON: Okay. So much for watches that
3 don't adjust for 30-day months.

4 ALTERNATE BOARD MEMBER HAY: That's the old
5 school watches.

6 CHAIRMAN SIMON: The first thing on for Public
7 Hearing is Case PB 18-12, Prestige Tae Kwon Do, 590 Central
8 Park Avenue. Could you identify yourself and speak to us
9 about the application?

10 MR. JASON KIM: Sure. Good evening. My name is
11 Jason Kim. I'm the current owner of the martial arts
12 school located at 455 Central Avenue called Kangs Martial
13 Arts. I'm here to discuss my application for a special
14 permit. The facility is going to be two adjoining units
15 which are totaling 2,685 square feet.

16 I've been at my current location for
17 approximately 15 years. The space is nice, but to better
18 accommodate the parents and the students, the growing
19 number of students, I plan on moving to 590 Central Avenue,
20 where it's approximately two, three big blocks south from
21 my current location. The previous businesses were Allstate
22 Insurance and Westchester Vacuum.

23 Basically, I'll be demoing the wall to adjoin the
24 two units. I'm really excited to move there. It has ample
25 parking for all of our clients and easy access via public

1 transportation by the Number 20 bus.

2 So at this time, if you have any questions, I
3 would like to take any questions that you have.

4 DEPUTY COMMISSIONER SCHMIDT: I would just like
5 to note for the Board that the project was referred to the
6 Building Inspector and to the Fire Chief and there were no
7 issues or objections to the proposal. The project
8 qualifies as a Type II Action under SEQRA.

9 CHAIRMAN SIMON: This, at least to me, this is a
10 straight forward application. First of all, is there
11 anyone from the public that wish to speak to this?

12 (Whereupon, there was no response.)

13 CHAIRMAN SIMON: Being no one, then I would just
14 like --

15 DEPUTY TOWN ATTORNEY FRIED: Are you sure?

16 BOARD MEMBER WATSON: Anyone? Speak up.

17 CHAIRMAN SIMON: To me, this is a straight
18 forward application. It's pretty standard among many of
19 the approvals that we have given along Central Avenue. I
20 see nothing out of the ordinary for this application. So I
21 have no comments. But I welcome any comments from the
22 other Board Members.

23 BOARD MEMBER DESAI: Yeah. You said there is
24 ample parking so. And then you say you have people coming
25 by Bus 20. So what percentage people come by bus or just

1 curious?

2 MR. JASON KIM: Sure. Very small percentage.
3 For our area, you know, most of the kids have nannies who
4 drop the kids off for class and they'll come pick them up
5 afterwards. So I would say 10 percent, maybe just a few,
6 some teenagers who take the bus to our location. Everyone
7 else is being dropped off by a parent or a nanny.

8 BOARD MEMBER DESAI: Okay. And the two spaces
9 you combine, so they are all one big open space or --

10 MR. JASON KIM: Yeah.

11 BOARD MEMBER DESAI: -- are you going to put some
12 other furnitures or --

13 MR. JASON KIM: No, it will be one big space, one
14 big mat, sir. And the seating for the parents will be all
15 the way at the end towards the northern unit, along the
16 side of the wall.

17 BOARD MEMBER DESAI: So there is no other -- it's
18 going to be big?

19 MR. JASON KIM: Big open mat area, yeah.

20 BOARD MEMBER DESAI: Okay.

21 CHAIRMAN SIMON: Any other questions?

22 ALTERNATE BOARD MEMBER HAY: No. I think we
23 reviewed it pretty thoroughly the last time.

24 CHAIRMAN SIMON: Okay. We have to classify this
25 as a Type II Action. Do we have a motion?

1 BOARD MEMBER WATSON: So moved.

2 BOARD MEMBER DESAI: Second.

3 CHAIRMAN SIMON: All in favor? Aye.

4 BOARD MEMBER DESAI: Aye.

5 ALTERNATE BOARD MEMBER HAY: Aye.

6 BOARD MEMBER WATSON: Aye.

7 BOARD MEMBER AYOUB: Aye.

8 BOARD MEMBER SCHWARTZ: Aye.

9 CHAIRMAN SIMON: Okay. Before you, we also we
10 went ahead, and normally when at the end of a hearing, we
11 will close the hearing and keep the record open for ten
12 days before we make a final decision.

13 Seeing how this is a relatively straight forward
14 application, we prepared a draft approval, which was
15 circulated among the Members of the Board. And I would
16 recommend that seeing how this is really a straight forward
17 application, the fact that no one from the public spoke
18 against it, and I would like for us to vote on the draft
19 approval that was submitted to this Board.

20 BOARD MEMBER SCHWARTZ: I just, I have no problem
21 with that, I just on the point of the Board, do we have to
22 close the Public Hearing on this first before we vote on
23 it?

24 DEPUTY COMMISSIONER SCHMIDT: Correct, correct.
25 Yes.

1 CHAIRMAN SIMON: Okay, fine.

2 DEPUTY COMMISSIONER SCHMIDT: Please.

3 BOARD MEMBER SCHWARTZ: I move that we close the
4 Public Hearing on this.

5 BOARD MEMBER WATSON: Second.

6 CHAIRMAN SIMON: All in favor? Aye.

7 BOARD MEMBER DESAI: Aye.

8 ALTERNATE BOARD MEMBER HAY: Aye.

9 BOARD MEMBER WATSON: Aye.

10 BOARD MEMBER AYOUB: Aye.

11 BOARD MEMBER SCHWARTZ: Aye.

12 CHAIRMAN SIMON: Okay.

13 DEPUTY TOWN ATTORNEY FRIED: May I then make the
14 suggestion that you hold this over until we go back into
15 work session?

16 CHAIRMAN SIMON: Work session and make a decision
17 in the work session.

18 DEPUTY TOWN ATTORNEY FRIED: Yes.

19 CHAIRMAN SIMON: Okay, fine. Okay.

20 BOARD MEMBER SCHWARTZ: We will be voting on your
21 application tonight.

22 CHAIRMAN SIMON: I make a motion to --

23 DEPUTY TOWN ATTORNEY FRIED: We just have,
24 there's a second Public Hearing.

25 CHAIRMAN SIMON: -- to close the Public Hearing.

1 DEPUTY TOWN ATTORNEY FRIED: No, we have a second
2 Public Hearing.

3 BOARD MEMBER SCHWARTZ: We have a second case.

4 CHAIRMAN SIMON: Oh, okay.

5 MR. JASON KIM: Thank you.

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1 DEPUTY TOWN ATTORNEY FRIED: You can step up on
2 Rojas.

3 MR. PETER KLOSE: Good evening, members of the
4 Board. My name is Peter Klose, K-L-O-S-E, for the
5 applicants Louise Maria Rojas and the adjoining applicants
6 down below, the Ferraras.

7 As we mentioned during the work session last
8 month, this case has been going on for ten years. The
9 instant application before you seeks to draw the lines the
10 way that the parties themselves have been utilizing this
11 particular space.

12 In that, my clients live on top of the hill and
13 need only a portion of the hill. The co-applicants live at
14 the bottom of the hill and have been using the bottom of
15 the hill in various ways.

16 The lot line alteration that we proposed
17 essentially codifies that or maps that. And it seems like
18 a relatively easy and straight forward matter in my view.

19 If there is -- I mean I'll take any questions you
20 have.

21 During the course of the last month, I did
22 receive a letter from the Building Department suggesting
23 that the applicants put a deed restriction into the, I
24 guess, newly created deeds, which I objected to for the
25 reason that this Board's purview really is to impose

1 reasonable conditions on the application before you.

2 In this application before you, we have a very
3 simple matter. A lot line alteration to accommodate two
4 neighbors who agree. One neighbor is going -- has spent
5 all the money to get this to this point, both through
6 litigation with his former land use people, as well as for
7 the purposes of preparing this rather extensive application
8 for this Board.

9 So I would ask that you take into consideration
10 that we've been doing this for ten years. I know not
11 before you. I'm not saying that it's your issue.
12 Although, it did take me a year to get this thing through
13 the application process. And that we grant the application
14 as presented.

15 I would say also that pursuant to the Building
16 Department's ruling, the new lot that is created down on
17 Russell Avenue will be subject to the R-7.5 Zone, which is
18 more restrictive zone. So anticipating your concerns that
19 maybe the R-7, maybe that newly formed lot might be the
20 subject for a future application, you have your Zoning Law
21 in place to deal with that. And I would say that it's
22 pretty well administered in this municipality.

23 Do you have any questions?

24 CHAIRMAN SIMON: Are there any questions at this
25 point?

1 BOARD MEMBER DESAI: Yeah. How many -- that's,
2 if that's condition by the Building Department, how does it
3 hurt you putting it into a deed restriction?

4 MR. PETER KLOSE: A deed restriction, how would
5 it hurt me?

6 BOARD MEMBER DESAI: That's what you can explain
7 something, which I'm trying to clarify.

8 MR. PETER KLOSE: How would it hurt me? It would
9 take away our --

10 BOARD MEMBER DESAI: You say you don't want to do
11 it, right?

12 MR. PETER KLOSE: I said that it's a, that this
13 Board has the power to issue reasonable conditions for the
14 application with the problem being addressed in this
15 particular application.

16 This particular application presents no request
17 for future subdivision, requests no request for future
18 development or construction. It is merely a lot line
19 alteration to express the situation of the topography of
20 this land.

21 If you look at the -- if you've gone to the
22 location, you'll note that -- or you look at the
23 photographs in the record, you will note that the top land
24 that is 40 to 60 feet above everything else, see where that
25 house is in photo number two, that's my client's house.

1 BOARD MEMBER DESAI: No, I understand that. I
2 think the question --

3 MR. PETER KLOSE: So they are not going to be
4 doing the subdivision. But to ask that these existing
5 residents, one who is 80, the guy below on the bottom, on
6 the bottom, 102 Russell, and my client, who has nothing to
7 do with the bottom lot really, to put deed restrictions in
8 is unfair. It's just plainly unfair.

9 BOARD MEMBER DESAI: Why?

10 MR. PETER KLOSE: Because you have a property
11 right to enjoy your property. I mean they should be able
12 to sell their property subject to the Zoning rules.

13 BOARD MEMBER SCHWARTZ: David?

14 DEPUTY TOWN ATTORNEY FRIED: Yes.

15 BOARD MEMBER SCHWARTZ: Correct me if I'm wrong,
16 I don't ever remember, we put conditions into subdivision
17 approvals. I've never remember us requiring anything in a
18 deed because we don't want to get involved in deeds; is
19 that correct?

20 DEPUTY TOWN ATTORNEY FRIED: Certainly not as was
21 stated, you know, in the memo. It is possible that when
22 we've had a conservation easement, we've done that.

23 BOARD MEMBER SCHWARTZ: Maybe. But in terms of
24 this kind of thing, the only thing I think we've ever done,
25 we may have put in as a condition of the subdivision that

1 they can't build, which could be over turned by the next
2 Planning Board anyway.

3 DEPUTY COMMISSIONER SCHMIDT: Right. For
4 instance, if someone had a double-sized lot.

5 BOARD MEMBER SCHWARTZ: Right, okay.

6 DEPUTY TOWN ATTORNEY FRIED: Right. And this
7 application doesn't fall within, we have a five-year rule,
8 this application doesn't fall within that definition
9 anyway.

10 CHAIRMAN SIMON: Okay. But now can you explain
11 that for the benefit of myself and the Board why that
12 five-year rule is not applicable in this case and --

13 DEPUTY COMMISSIONER SCHMIDT: And what the rule
14 is.

15 CHAIRMAN SIMON: Yes, exactly.

16 DEPUTY TOWN ATTORNEY FRIED: The ruling is, or
17 the law, which comes from the Town Code 250-4, says when a
18 building permit is granted for a single-family dwelling on
19 a lot that has at least twice the minimum lot area of the
20 underlying zone, no subdivision application shall be
21 accepted --

22 BOARD MEMBER SCHWARTZ: Is it five years?

23 DEPUTY TOWN ATTORNEY FRIED: -- or --

24 DEPUTY COMMISSIONER SCHMIDT: Received.

25 DEPUTY TOWN ATTORNEY FRIED: -- received by the

1 Planning Board for that lot or any portion of said lot for
2 five years after the date of the issuance of the building
3 permit.

4 BOARD MEMBER SCHWARTZ: Why doesn't that fall
5 into that? It's not --

6 DEPUTY TOWN ATTORNEY FRIED: Because there is
7 no -- there is no application for a building permit. You
8 have two existing houses.

9 DEPUTY COMMISSIONER SCHMIDT: There is no
10 building permit.

11 DEPUTY TOWN ATTORNEY FRIED: That would occur if
12 you subdivide it and then put a building on.

13 BOARD MEMBER SCHWARTZ: I'm looking at this. I'm
14 not sure how you're going to get access to that other lot.

15 CHAIRMAN SIMON: It would have to be a flag lot.

16 BOARD MEMBER SCHWARTZ: It would have to be a
17 flag lot.

18 DEPUTY TOWN ATTORNEY FRIED: It would permanently
19 be a flag lot.

20 BOARD MEMBER SCHWARTZ: It would require
21 variances too because that lot is pretty narrow.

22 DEPUTY TOWN ATTORNEY FRIED: And I think what
23 Mr. Klose was saying was that he believes that, and I'm not
24 saying that it does require a variance, I am not certain
25 about that. But what he's saying is that it's covered by

1 our Zoning Law. If it can be done, it can be done, if it
2 requires a variance --

3 BOARD MEMBER SCHWARTZ: Mr. Klose, let me
4 explain, I've been watching this stuff, involved in this
5 for a fairly long time. I think I even had hair when I
6 started. We've had situations where somebody comes in here
7 and says no, we're not going to build and then they do.
8 Okay, it happens all the time, okay.

9 These people are 80 years old. They are going to
10 sell the land sooner or later, probably sooner than later.
11 And it could happen. I agree, I would never -- I don't
12 believe we should be recuring deeds. It's definitely
13 beyond our jurisdiction. That would not be appropriate.

14 In this particular case, I have to say, I agree,
15 I think we should just make the lot line change and worry
16 about the subdivision later. That's what I think.

17 BOARD MEMBER WATSON: I was just going to say I
18 really support that. I just, I just don't think it's
19 appropriate to be putting in restriction on a deed. I
20 think that if either one of the owners comes back later on
21 with an application --

22 BOARD MEMBER SCHWARTZ: We will deal with it
23 then.

24 BOARD MEMBER WATSON: -- or something like that,
25 I think we deal with it then.

1 BOARD MEMBER SCHWARTZ: Yeah.

2 BOARD MEMBER WATSON: Again, to get into this, I
3 think is --

4 BOARD MEMBER SCHWARTZ: I agree.

5 MR. PETER KLOSE: I'll stipulate for the record
6 that they should have done it in 1991 when this started.

7 BOARD MEMBER WATSON: Yeah.

8 BOARD MEMBER SCHWARTZ: I mean you would have to
9 be pretty creative to subdivide the two lots anyway. And
10 there are creative engineers that can do that. But you
11 know, I agree with you, I think at this point to do that it
12 doesn't make a lot of sense.

13 CHAIRMAN SIMON: Are there any other comments?

14 DEPUTY TOWN ATTORNEY FRIED: So before you go
15 there, we do need to do the SEQRA determination.

16 DEPUTY COMMISSIONER SCHMIDT: This project does
17 qualify as an Unlisted Action under SEQRA because it
18 involves a subdivision.

19 BOARD MEMBER WATSON: I'll move it.

20 BOARD MEMBER AYOUB: Second.

21 BOARD MEMBER DESAI: Second.

22 CHAIRMAN SIMON: All in favor? Aye.

23 BOARD MEMBER DESAI: Aye.

24 ALTERNATE BOARD MEMBER HAY: Aye.

25 BOARD MEMBER WATSON: Aye.

1 BOARD MEMBER AYOUB: Aye.

2 BOARD MEMBER SCHWARTZ: Aye.

3 DEPUTY TOWN ATTORNEY FRIED: Mr. Schwartz, are
4 you voting?

5 BOARD MEMBER SCHWARTZ: I said aye.

6 DEPUTY TOWN ATTORNEY FRIED: Okay.

7 BOARD MEMBER SCHWARTZ: My wife says aye, too.

8 MR. PETER KLOSE: She's got Face Time?

9 DEPUTY COMMISSIONER SCHMIDT: The Board would be
10 in a position to adopt a negative declaration as well.

11 BOARD MEMBER SCHWARTZ: I'll make that motion.

12 BOARD MEMBER AYOUB: Second.

13 CHAIRMAN SIMON: All in favor? Aye.

14 BOARD MEMBER DESAI: Aye.

15 ALTERNATE BOARD MEMBER HAY: Aye.

16 BOARD MEMBER WATSON: Aye.

17 BOARD MEMBER AYOUB: Aye.

18 BOARD MEMBER SCHWARTZ: Aye.

19 DEPUTY TOWN ATTORNEY FRIED: Now, ask if anyone
20 from the public wishes to speak.

21 CHAIRMAN SIMON: Being that there is no one from
22 the public that wishes to speak on this issue --

23 BOARD MEMBER SCHWARTZ: Would you like to provide
24 an opposing --

25 MR. PETER KLOSE: I mean I'm the Chairman of the

1 Planning Board in Nyack, and I'm frankly surprised that
2 after 100 letters to the public, not one person showed up.
3 But I mean I'll take it.

4 CHAIRMAN SIMON: I'll entertain that there is no
5 comments from the public, I'll entertain a motion to close
6 the hearing?

7 ALTERNATE BOARD MEMBER HAY: So moved.

8 CHAIRMAN SIMON: Keep the record open until what
9 is the date?

10 DEPUTY COMMISSIONER SCHMIDT: July 25th.

11 CHAIRMAN SIMON: To July 25th.

12 BOARD MEMBER DESAI: So moved.

13 BOARD MEMBER AYOUB: Second.

14 CHAIRMAN SIMON: All in favor? Aye.

15 BOARD MEMBER DESAI: Aye.

16 ALTERNATE BOARD MEMBER HAY: Aye.

17 BOARD MEMBER WATSON: Aye.

18 BOARD MEMBER AYOUB: Aye.

19 BOARD MEMBER SCHWARTZ: Aye. It will be voted on
20 at the next meeting.

21 MR. PETER KLOSE: How does it work, just from a
22 procedural point of view?

23 DEPUTY TOWN ATTORNEY FRIED: As you may have seen
24 at the beginning of the meeting, what happens is that we
25 will get a draft version to the Board Members and they will

1 review it and then make their determination at that
2 meeting.

3 DEPUTY COMMISSIONER SCHMIDT: At the beginning of
4 the meeting.

5 MR. PETER KLOSE: Will I get a draft of that? Or
6 am I supposed to show up to it?

7 DEPUTY COMMISSIONER SCHMIDT: If you request a
8 draft the week of the meeting, like the Monday before, we
9 will provide you with a draft.

10 MR. PETER KLOSE: Okay. The 25th, the week of
11 the 25th?

12 DEPUTY TOWN ATTORNEY FRIED: August 1st.

13 MR. PETER KLOSE: August 1st.

14 DEPUTY TOWN ATTORNEY FRIED: So it would be the
15 30th.

16 DEPUTY COMMISSIONER SCHMIDT: July 30th.

17 MR. PETER KLOSE: The week of the 30th, okay. I
18 can request that, but I don't need to come to the Public
19 Hearing?

20 BOARD MEMBER WATSON: No.

21 DEPUTY COMMISSIONER SCHMIDT: If there are no
22 comments.

23 DEPUTY TOWN ATTORNEY FRIED: If there are no
24 comments about it.

25 BOARD MEMBER SCHWARTZ: It's a work session. If

1 you have any comments, just get them back to David.

2 MR. PETER KLOSE: And so the next meeting is
3 when?

4 DEPUTY TOWN ATTORNEY FRIED: August 1st.

5 MR. PETER KLOSE: Oh, August 1st. I really
6 appreciate your time. Thank you.

7 BOARD MEMBER SCHWARTZ: Okay, thank you. Have a
8 good evening.

9 MR. PETER KLOSE: You too.

10 BOARD MEMBER SCHWARTZ: I make a motion to close
11 the Public Hearing.

12 ALTERNATE BOARD MEMBER HAY: Second.

13 CHAIRMAN SIMON: All in favor? Aye.

14 BOARD MEMBER DESAI: Aye.

15 ALTERNATE BOARD MEMBER HAY: Aye.

16 BOARD MEMBER WATSON: Aye.

17 BOARD MEMBER AYOUB: Aye.

18 BOARD MEMBER SCHWARTZ: Aye.

19 (Whereupon, the Public Hearing session was
20 concluded.)

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C E R T I F I C A T I O N

Certified to be a true and accurate transcript
of the stenographic minutes of proceedings taken by the
undersigned, to the best of her ability.


Barbara Marcianti,
Official Court Reporter