

STATE OF NEW YORK
TOWN OF GREENBURGH
X-----X
Public Hearings and Decisions Before
The Zoning Board of Appeals of
Greenburgh, New York, in Connection with
Various Applications in Relation to the
Town Ordinance of the Town of Greenburgh.
X-----X

May 16, 2019
8:00 P.M.

Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York

BOARD MEMBERS:

- Laurence J. Doyle (RETIRED)
- Eve Bunting-Smith (Acting Chairwoman)
- Rohan Harrison
- Louis Crichlow
- William Losapio
- Daniel Martin
- Kristi Knecht (NOT PRESENT)
- William Bland
- Barbara Brennan

STAFF MEMBERS:

- Carole Walker,
Secretary

- Anthony Zacarolli
Deputy Town Building Inspector

- Edward Lieberman, Esq.
Deputy Town Attorney

Debra L. Rinaldi
Official Court Reporter

5/16/2019 - Case No. 19-02

(Whereupon, at 8:11 PM the meeting of the Zoning Board of Appeals for the Town of Greenburgh was called to order.)

MS. BUNTING-SMITH: Good evening, everyone. Welcome back. And you newcomers, welcome. The Zoning Board of Appeals Town of Greenburgh will now come to order.

We have nine cases that were scheduled for tonight's agenda. However, Case No. 19-02 has requested an adjournment as-of-right.

Please note that our Zoning Board will have our next regular meeting on Thursday June 20th. As usual, if we cannot finish hearing any case tonight it will be adjourned to another meeting, hopefully to be completed. Also as is usual, we waive a reading of the property location and the relief sought for each case. However, the report will insert this information in the record and it's also in the agenda for tonight's meeting. Sounds like it is.

Welcome everyone. Welcome back for those who have been here before.

In any event, it looks like we really actually almost have spring so that's good. The Zoning Board is now coming to order.

We have nine cases that were scheduled for tonight's agenda. However, Case No. 19-02 has requested an adjournment as of right. Our next meeting will be on Thursday, June 20th. As usual if we cannot complete a case hearing a case tonight it will be adjourned to another meeting hopefully to be completed at that time.

Also as is usual to save time we will waive a reading of the property location and the relief sought for each case. However, the Reporter will insert this information in the record. This

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information also appears in the agenda for tonight's meeting.

After the public hearing of tonight's cases we meet in the conference room directly behind us to discuss the cases we've heard tonight. Everyone here is welcome to join us in that room and listen to our deliberations, but the public is not permitted to speak or to be involved at that time.

After our deliberations we come back into this room to announce our decisions and/or to be broadcast to the community.

If you're going to speak please come up to the microphone, clearly state your name and address or your professional affiliation. If you're not a named applicant spell your name for the record.

We've heard testimony on some of the cases at prior meetings. Any prior testimony is already in the record and should not be repeated.

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5/16/2019 - Case No. 18-33

MS. BUNTING-SMITH: Tonight the first case to be heard is Case No. 18-33 Marco Persichillo Trust.

Case No. 18-33 - Marco Persichillo Trust, for property located at 70 Abbeville Lane, (PO White Plains, NY). Applicant is requesting an area variance from Section 285-10(3)(J) of the Zoning Ordinance to increase the number of vehicle spaces from 3 (permitted) to 8 (proposed), in order to enlarge the garage on the property. The property is located in an R-7.5 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 7.470-288-11.

MS. BUNTING-SMITH: Is there anyone here that wishes to offer any information on that case?

(No response.)

MS. BUNTING-SMITH: All right. We'll move along.

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5/16/2019 - Case No. 19-02

MS. BUNTING-SMITH: The next case is Case No. 19-02, which is the one that has requested the adjournment.

ZBA Case No. 19-02 - DJF Real Estate Holding Corp., for property located at 23 & 25 Warehouse Lane, (PO Elmsford, NY). Applicant is requesting area variances from Section 28532(B)(3) of the Zoning Ordinance to increase the maximum building coverage from 15 % (permitted), 18.4 % (existing) to 25 % (proposed), from Section 285-32(B)(4)(b) to reduce the one side yard setback from 50 ft. (Required), 19.86 ft. (Existing) to 39.16 ft. (Proposed); from Section 285-32(B)(4)(c) to reduce a total of two (2) side yard setbacks from 100 ft. (Required), 69.7 ft. (Existing) to 90.57 ft. (Proposed); from Section 285-32(B)(5)(a) to reduce the distance from off-street parking to the principal building from 25 ft. (Required) to 2 ft. (Proposed); from Section 285-32(B)(5)(b) to reduce the distance from off-street parking to the side lot line from 25 ft. (Required) to 0 ft. (Proposed); from Section 285-32(B)(5)(c) to reduce the distance from off-street parking to the rear lot line from 25 ft. (Required) to 19.11 ft. (Proposed); and from Section 285-38 to reduce the off-street parking spaces from 192 (permitted) to 67 (proposed), in order to construct a new building. The property is located in an LI-Light Industrial District and is designated on the Town Tax Map as Parcel ID 7: L80-52-17 & 7.180-52-18.

MS. BUNTING-SMITH: Is there anyone here that had wanted to give any comments on that case?

(No response.)

MS. BUNTING-SMITH: Okay.

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5/16/2019 - Case No. 19-05

MS. BUNTING-SMITH: The next is Case No. 19-05, Maria Regina High School Squires Camp. I'm sure we have someone here to discuss that for us.

ZBA Case No. 19-05 - Maria Regina High School (Squire Camp), for property located at 500 W. Hartsdale Avenue (PO Hartsdale, NY). Applicant is requesting a special permit pursuant to 28510(A)(2)(i) of the Zoning Ordinance to operate a private seasonal camp; and variances from Section 285-10(A)(2)(i)(2) to reduce the distance from the school building to the front lot line from 200 ft. (Required) to 185 ft. (Proposed); to reduce the distance from the front lot line to a recreation area from 200 ft. (Required) to 162 ft. (Proposed); to reduce the distance from the southerly lot line (Keats Avenue) to a recreation area from 200 ft. (Required) to 62 ft. (Proposed); and to reduce the distance from the rear property line to a recreation area from 200 ft. (Required) to 92 ft. (Proposed), in order to operate a private seasonal camp.

MR. GLATTHAAR: Good evening, Madam Chair, Members of the Board. My name is Jim Glaathar from Bleakley, Platt. We're the attorneys for Maria Regina. With me tonight we have Rosemary Decker, who is sitting over there in the audience. We also have Janet Giris, from DelBello, Donnellan, which is the attorney for Squires Camp and the operator of Squires Matt Davanzo. He's the attorney.

Taking heed to the Chair's statement, we will not repeat the testimony that we gave last month. We believe we set forth why the school and the camp satisfy the requirement for a Special Permit. We'll just deal with the variances tonight.

There are several variances that we require for them. One is from the existing

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gymnasium on West Hartsdale Avenue. Hartsdale Avenue. The other is from the approved but as yet unbuilt athletic field. It's from 38 feet from West Hartsdale Avenue. It is a variance of 138 feet from Keats Avenue and 108 feet from Spencer Court.

Now, the school itself does not require a 200 foot setback. Only the summer camp does. And so what we are talking about here is we're going to have children and teenagers playing on grass athletic fields and in the gymnasium and studying in the classroom. That is what will happen if this Special Permit and the variances are granted.

Now, for the area variances we must show there will be no undesirable change in the character of the neighborhood. And to that I say, this use has been going on for five years, we didn't know, neither did Squire Camps, that they needed a Special Permit. This has been going on has been going on it apparently has not caused any detriment to the neighborhood. We have been to the neighborhood many times; Maria Regina's people are there every day. Squires Camp's people are there all summer and there is no real impact on the neighborhood.

Young people are dropped off in the morning, picked up at 3:30 in the afternoon. It's Monday through Friday except for July 4th. And it ends in the middle of August.

Whether the benefit sought by the applicant can be achieved by some other method -- not really. It would be a shame to have a camp where kids can't use the athletic field that's already there. And the Town Board has approved a new athletic field. It will not be built in time this year for Squire Camps to use it, but the hope is it will be built in time for Maria Regina's own fall program to use it. But

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the fact is, we thoughts we should apply for those variances now. The field has been approved by the Town Board; it will be constructed later this year.

So what we're allowing again is school type activities, kids in classrooms, kids playing in athletic facilities for another six weeks beyond the normal school year.

The whether the proposed variance will have an adverse impact on the physical and environment environmental conditions in the neighborhood we'll submit it hasn't had any impact for the past five years. There have been no complaints about the operation of the camp. And last whether the difficulty is self-created, what is happening here is an existing high school campus is being used by a summer camp. It's not a question of any self-created situation. It's a question of we have facilities and we're going to be improving those facilities. They need them for their activities. It's a question of two parties working together to achieve a common goal.

Do you have anything you'd like to add? Janet?

MS. GIRIS: No. I don't think other than what we talked about last month with regard to the Special Permit. As you know, there are both specific and general special permits standards. I think we went through them for you last month. The variances that Jim is referring to from one of the Special Permit specific standards, and they are related to -- we are seeking them for something that's been existing facility. We are not making any physical changes or modifications to the site to accommodate this camp and it's something that the community has relied on for the last number of years. Members of the community are relying on it this year so this their children have something to do

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while parents are working this summer and we are just hopeful that you will vote favorable on this this evening so that we can get started in preparation for camp this summer.

MS. BUNTING-SMITH: Have you seen the objections to your application? That one was received May 13th and the other May 9th from the Poets Corners Civic Association?

MR. GLATTHAAR: Yes. We have seen those, and for the most part those letters merely rehash the arguments that the residents made opposing the construction of the athletic field. The Town Board was not persuaded by those arguments and we submit this Board shouldn't be either.

The activities have been going on for five years and Maria Regina has similar activities going on during the school year. And I really have to ask myself, how can children playing in a community be adverse to a neighborhood? I mean, really, that's what we're talking about here. We're talking about people six to maybe 14 having a place to go and things to do in the summer time, between nine and three. How can that be adverse to a condition in the neighborhood?

We're talking about using classrooms that would otherwise be empty using an athletic field that would otherwise be empty and you're it talking about -- this isn't some esoteric concept. This is an actual need. This camp has been going on for almost 50 years in this community, and it should be allowed to continue, we submit. So we have heard the arguments, we've seen the arguments. We don't believe the Board should be swayed by them. We don't believe there will be any negative impact on them. If it comes down to kids making noise in the summer time, honestly, I think we've got to go with the good of the kids in the summer

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time, honestly.

MS. BUNTING-SMITH: They mentioned that there was some type of promise of a break from the noise when school was in recess.

MR. GLATTHAAR: No.

MS. BUNTING-SMITH: Was that ever raised before?

MR. GLATTHAAR: No. There was no promise to that. What has was happening was the Town Board members asked, what is going to go on in this field? They were concerned about nighttime activities. And we played it very clear we have no plans to do nighttime activities. And in fact the school went so far as to submit a letter to the Town supervisor stating they never intend to put lights up, they never intend to have nighttime activities. There was no promise that they would close in the summer. There is no promise that we wouldn't hold an occasional soccer practice or a field hockey practice in the summer, or that we wouldn't have kids in classrooms in the summer. There was nothing like that. In fact the camp was specifically mentioned during our Town Board hearings. The Town Board now we'd be submitting this application. And they weren't surprised. In fact, it was submitted before we got the decision approving the athletic fields. So there was no such promise. What we discussed was the school's programs which as you know occur during the school year. We didn't really discuss the summer but we did discuss the Squire Camps would be applying for a permit for Squires Camp.

MS. GIRIS: If I could just add to that, Madam Chair. As you know, the school is designed for 500 students. The camp will have somewhere around 200 students. And I think there is something we mentioned to the Board when we're here last month that we

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don't anticipate having more than about 40 kids outside at any given time during the course of the day. One of the things that we talked about this camp, that it's a STEM camp. It's educational in nature. And as you probably know, educational institutions do enjoy beneficial treatment. They are deemed to be beneficial, and we believe that this is a benefit to the community.

So, again, we've got 40 kids who are outside playing for a little while during the day but typically most of the still of this camp occurs indoors this is a STEM camp. And so I don't think that there will be any impact on the community that are going to be discernable above ambient noise levels. We're talking about a few kids who are going to be out on an athletic field for 40 minutes. It's not a substantial amount of time and it's not a substantial amount of noise. It's not a substantial amount of people.

MS. BUNTING-SMITH: Prior to these objections that were recently received, were there any similar objections that had ever been presented to Maria Regina regarding the camp?

MR. GLATTHAAR: No. No, Madam Chair. This all sort of happened by accident, during Maria Regina's site plan for the athletic field. One of the neighbors mentioned to somebody from the Town of Greenburgh, well, you know they have a summer camp there, and the Town didn't know. So the Town saw an ad for Squires Camp and sent us a notice of violation and so we got on it right away. But there has if never been an actual complaint about the camp itself.

MR. CRICHLow: So you've stated that it's been in existence over the last five years, and the activities will more or less -- did I make a mistake?

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MS. GIRIS: No. I was just going to remind you that it's been at this location for the last five years, but it's been in existence for over 40 years.

MR. CRICHLLOW: Oh, okay. And you're saying that the activities are going to be the same

MS. GIRIS: Yes.

MR. CRICHLLOW: There is no chance, though -- and this might seem a bit facetious -- that you might change some of the activities or add an activity such as practicing for a marching band or something?

MS. GIRIS: Not intended -- as I mentioned earlier, this is a STEM camp; you know, science, technology, engineering, mathematics. So, like I said, typically the activities are indoors. There are some, you know, athletic times during the day. And I went through this with you last month and I don't want to take up more of your time, but, you know, typically the children get to choose between five activities during the course of the day, and typically one of those activities could be an outdoor activity. But more often than not those activities take place inside the school, in the gym, in the shop, in the pottery studio, all those sorts of things. So there is very little activity that goes on outside of the school.

MR. CRICHLLOW: Thank you.

MR. HARRISON: Have either one of your clients reported during those five years that the camp that's been there that any of the residents made a complaint?

MS. GIRIS: None.

MR. GLATTHAAR: None.

MS. GIRIS: We've received

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nothing.

MR. GLATTHAAR: We've received nothing.

MS. BUNTING-SMITH: Anyone else wish to be heard on this application tonight?

(No response.)

MS. BUNTING-SMITH: Come up.

MR. KAUFMAN: Thank you for this opportunity.

My name is Michael Kaufman. I live in Stone Oaks, which is very, very close to Maria Regina High School. I've known about the camp for five years only because in the spring there is usually a sign that says the name of the camp and you can register for it. Otherwise, I drive by all the time, up and down Hartsdale Avenue, and of course taking some shortcuts through Poet's Corner and in back of the school and have never seen or heard -- both during the school year and also when the camp is in session. So I'm kind of surprised that people would complain about a resource for this community, which I think is very important.

There are a number of camps. My kids -- my grand-kids, rather, go to camps. My son and daughter -- son and daughter-in-law pay a fortune for camps. I know that this camp is more modestly priced than the Elmwood and Mohawk and some of the other camps, and I think it's a great community resource. It's a community resource that the odds are my children will never attend, because we're Jewish and it is a catholic school. So I'm not suggesting that this is something that I or my family will ever attend; but I think it's a great community resource that just shouldn't be shut out because they made a mistake by not filing five years ago for permits and it

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becomes an issue today. I hope that you will allow this camp to continue. Do you have any questions?

MS. BUNTING-SMITH: No. Thank you.

MR. KAUFMAN: Thank you.

MS. BUNTING-SMITH: Anyone who wants to speak is welcome.

MR. SALWIN: My name is Scott Salwin. I was here a couple of months ago for a variance for a garage.

First of all, I want to thank the Board, just because you have a thankless job. You're going to get complaints that are valid, you're going to get complaints like this.

I'm friends with Matt, who owns the camp and runs the camp. And my understanding is a variance is if you can show hardship.

Now, this is Matt's livelihood, number one, who has a family. If this variance isn't granted he's out of a job. Forget about the 50 people who count on that, the employees, that a lot of them work in Town, won't be able to work if it's not granted. You still have the students, the 200 plus students that go here. A lot of them are from Greenburgh. They are counting on this camp almost as daycare I assume that parents work. So it's a hardship for everybody if the variance isn't granted.

Now, on the other hand, I read the letters that came from the residents of Poets Corners and I could almost guarantee you -- not that I'm a gambling man, but I would gamble that those people moved in after the school existed. The school has been there since 1957, and these houses were built about the same time. So the people that are complaining -- I'm sure -- moved in

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knowing there is a school. Now the kids play -- I grew up in this town. It was a nice little school. It's a regular school. So the kids playing in the field, I don't foresee a big problem. It sounds like someone is just complaining to complain. But that's my opinion. Thank you for your time, and thanks, again for what you do.

MR. LOSAPIO: Thank you.

MR. CRICHLow: Thank you.

MS. BUNTING-SMITH: Anyone else?
(No response.)

MS. BUNTING-SMITH: I don't know if you want to add anything. I think that pretty much says it all.

MR. GLATTHAAR: No, Madam Chair.

MS. GIRIS: Thank you. I think we're all set.

MS. BUNTING-SMITH: Thank you.

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5/16/2019 - Case No. 19-11

MS. BUNTING-SMITH: Next case on tonight's calendar is Case No. 19-11, Solomon Schechter School of Westchester.

ZBA Case No. 19-07 - Solomon Schechter School of Westchester, for property at 555 W. Hartsdale Avenue (Hartsdale, NY). Applicant is requesting a special permit pursuant to 285-10(A)(2)(i) of the Zoning Ordinance to operate a private camp; from Section 285-10(A)(2)(i)(2) to reduce the distance from a tennis court to the side lot line from 200 ft. (Required) to 59.2 ft. (Proposed); and to reduce the distance from the south lot line to a recreation area from 200 ft. (Required) to 165.1 ft. (Proposed), in order to operate a private seasonal camp. The property is located in a R-20 One-Family residential District and is designated on the Town Tax Map as Parcel ID: 8.141-94-25.

MR. STEINMETZ: Good evening, Madam Chair, Members of the Board. David Steinmetz from the law firm of Zarin and Steinmetz, here this evening representing Solomon Schechter. My partner Jody Cross was here last month and went through the special Permit aspect as well as two of the variances.

I'm here tonight because there was one additional variance that was identified that we needed to also address. With me this evening is Smadar Amador, our director of operations. I think you're all aware there was one additional measurement from the front corner, the south-westerly corner of the building to West Hartsdale Avenue, 103.34 foot setback or where 200 is required necessitating 96.66 feet.

We made written submissions to you, Madam Chair, Members of the Board, on March 15th as well as on May 1st. We identified the Special Permit criteria as well as the variances that we needed. You're aware of

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the other two variances, they were discussed last time I could walk you through them again if you wish I'm happy to pass by you have a significant agenda. Quite simply, in summary, we believe the benefit to the applicant significantly outweighs any detriment to the community as far as the five factors of which you're obviously well aware there is really no adverse impact to the community. This building has been there, and like the prior applicant has been operated as a school for a number of years. There is no feasible alternative. They are not about to move the building, yet these camps do provide a wonderful benefit for the large community.

The variances requested is not substantial, we believe, based upon the totality of factors. There is no adverse impact. In fact, the nice thing about these camps operating at this building or at this campus, there is a lot less bus movement during the summer months and a lot fewer students or children coming to the campus during the summer months. So in terms of community impact, it is actually a reduction during the operation of the camps. And any self-created hardship is really as a result of the criteria of the Zoning Ordinance, which this building and this school was already permitted previously by the Town.

So, Madam Chair, Members of the Board, having added this third specific area variance, we would request that your Board balance the factors and grant all three area variances and as well as issue a Special Permit.

MS. BUNTING-SMITH: Thank you for your brevity. Anyone have any questions?

(No response.)

MS. BUNTING-SMITH: Anyone in the audience wish to address this case?

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(No response.)

MR. STEINMETZ: Madam Chair, did I go on too long last night?

MS. BUNTING-SMITH: So, no, you were perfect.

MR. STEINMETZ: Thank you. I appreciate it. Glad you were there.

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5/16/2019 - Case No. 19-08

MS. BUNTING-SMITH: So you're calling yourself up. Good. I appreciate that. Okay. Hopefully this is Case No. 19-08, Nesto's. I'm sorry.

ZBA Case No. 19-08 - Nesto's (One-O-One Realty), for property at 24 Tarrytown Road (P.O. White Plains, NY). Applicant is requesting area variances from Section 285-28(B)(4)(b) of the Zoning Ordinance to increase the maximum impervious coverage from 80 % (permitted) to 83.2 % (proposed); from Section 285-28(B)(6)(c) to reduce the distance from the off-street parking area to the eastern side lot line from 10 ft. (Required) to 1.4 ft. (Proposed) and to the west side lot line from 10 ft. To 3 ft. (Proposed); and from Section 285-28(B)(6)(b) to reduce the distance from off-street parking to the front lot line from 10 ft. (Required) to 2 ft. (Proposed), in order to provide additional parking. The property is located in a DS-Design Shopping District and is designated on the Town Tax Map as Parcel ID: 7.500-310-1.

MR. DAVIS: Good evening, Madam Chair and Members of the Board. My name is Clifford Davis, 202 Mamaroneck Avenue in White Plains, representing Nesto's, at 24 Tarrytown Road.

As an overview, the application is before the Planning Board for a site plan amendment. As this Board might remember we came before this Board in 2014 when Mr. Tartaglione wanted to put in a drive-through window at the deli, and this Board in August of 2014 granted area variances that were necessary.

We're now back before the Planning Board. There was a Planning Board meeting last night. The Planning Board gave a recommendation to this Board to approve the variance, or at least the Planning Board's recommendation, and they also issued under S.E.Q.R. a Negative Declaration.

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There are four small area variances. One is dealing with impervious surface which is quite small. The others are going from their setback requirements. There are setback, and when you look at the totality of the factors and the Case Law -- well, if you look at percentages that would be one thing but the area variances that we're seeking are quite small.

Now, essentially what is going on is that it's an expansion of the parking lot, to create an additional eight spaces. And the reason for creating the eight additional spaces is to have better traffic flow going around as well as making sure that there are no cars queueing up outside of the deli.

The ability to expand the parking lot became available to the owner of the of the property when he purchased land from the New York State DOT, which was adjacent to 119. So on the balancing test, there is not going to be any undesirable change in the community. It's essentially an expansion of eight parking spaces to ensure that cars come into the place, more specifically, and they don't queue up. The owner cannot obtain the expansion and provide the eight parking spaces without these variances.

In our position the area variances are not substantial and are very similar to what this Board granted in 2014. One could argue that the variances are self-created in the fact that the zoning does exist, but as this Board well knows, that is not fatal. So I'm not trying to state that something is not self-created when it's self-created. You know, that's why this Board is here; because, you know, we need your assistance in being able to have more safe parking conditions.

And, again, there is no impact to the community. We're not aware of anybody complaining about this application, and what we want to do is make it much safer. I'm

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here with my engineer Ubaeh Abdullah (phonetic), he can answer any questions, address an engineering or traffic aspect if this Board has any.

MS. BUNTING-SMITH: All right. Questions?

(No response.)

MS. BUNTING-SMITH: Comments?

MR. DAVIS: So the only thing before this Board are those four area variances.

MR. BLAND: You want a comment?

MR. HARRISON: Yes. Food is good. Thank you for that. All right.

MR. LOSAPIO: I have a question. Why wasn't this applied for when you came for the original variance?

MR. DAVIS: Oh, because we didn't own the property that we purchased from the New York State DOT, so it only became available once that purchase was made. So, you know, that's the grassy area, you know, by 119.

MR. LOSAPIO: Yes. Thank you.

MS. BUNTING-SMITH: The very detailed plans that you gave us regarding the spaces and how you get in and out of them, did you use any type of expert to provide that information or simply done by the architect?

MR. DAVIS: Our office provided it, actually. It's through a program and it was reviewed by the Traffic and Safety Department, as well as the Police Department, and they had no issue with that.

MS. BUNTING-SMITH: Okay.

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MR. BLAND: Just for clarity, I see the crosswalk that's been instituted. So as people walk from the parking there is going to be a pathway if you look to -- I guess the southern portion of parking lot just before the crosswalk, is that an area for them to walk or will they actually walk in the driveway?

MR. DAVIS: They'd be walking in the driveway itself. They did request that we mark out a bit area, if you will, along the back of the parking space just to indicate those are our crossing area.

MR. ADBULLAH: U-B-A-E-H.

MS. BUNTING-SMITH: Does anyone in the audience want to comment on this case? Come on up.

MR. TARTAGLIONE: Hi. My name is Ernest Tartaglione. And I own and used to be Deli Delicious. I'm in business there since 1981. I built the building. I just reconstructed the pizzeria deli, and I've been there forever.

The problem right now, the deli has a short window of opportunity to help the people of Greenburgh. Between 11:30 and 1:30 people come in there and they double-park, triple-park. They park out in the street. And there is really -- it's not really good to have people parking in the street, double parking and triple parking. I've got some photographs to show you what it's like between 11:30 and 3:30.

Not only that, but I have 11 employees. Presently we have seven parking spaces. So if 11 employees come in and park at Nesto's, the customers are forced to park in the street. So if we get this parking the customers will be able to park off the street, on to my property, and there won't be conglomeration of cars that are double and triple parked. I want to show you these

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photographs.

(Whereupon, Mr. Tartaglione approached the Board with photographs.)

MR. TARTAGLIONE: I've been trying to obtain this property for the last probably 12 or 15 years. And finally, I guess the DOT decided -- the DOT decided that they needed some funds and they decided to sell me partial of that frontage. So when you look at this property on 119 there is a grassy buffy area, and then the parking comes and then comes the drive-through. So it's in accordance -- it's right in line with all of the other stores. If you look across the street, at Apple Farm's parking lot, they have a grassy buffy area, then they have the park.

If you look in the CVS, they have a grassy area and then they have the parking. So I was at the Planning Board meeting last night and the Planning Board members had said that this goes in coordination with the whole neighborhood. Just blends right in.

I think this is a win/win situation. And at this point I want to thank you, the Board, for letting me put the drive-through window in years ago. And I didn't realize at the time why that was so important and so good; because mainly the people that utilize this are handicapped people, people with crutches, women with kids, two or three kids, that don't want to take the kid out of the car. That is an unbelievable situation for -- there is no place in Greenburgh that you would, unless if you have two kids or if you're handicapped, then you have a walker where could you go?

This is a really good thing that the Board did. But besides that I think this is another good win/win situation for the Town. Cars will get off the street. There will be more parking on my property and my employees

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will be able to park there.

I don't know what else to say besides I've been here since 1980. Forever.

MR. LOSAPIO: I'd like to congratulate you because most people that come here are looking to down-size or down scale and ask for less parking and whatnot. Here you're coming to us adding more parking. And evidently you spent some money. And I like the plantings that you're going to put in there, and I'm sure it's going to look very nice. So thanks for wanting to improve the community.

MR. TARTAGLIONE: Thank you very much.

MR. LOSAPIO: Now that you got your drive-through.

MR. TARTAGLIONE: It was a tough road. Oh, my God.

MR. LOSAPIO: I was here.

MR. TARTAGLIONE: A lot of sleepless nights I lost. Thank you very much.

MS. BUNTING-SMITH: Anyone else?

(No response.)

MS. BUNTING-SMITH: All right, thank you.

MR. TARTAGLIONE: Thank you.

* * * * *

MS. BUNTING-SMITH: Now we go to

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Case No. 19-09, Angel Santos.

ZBA Case No. 19-09 - Angel Santos, for property at 35 Maple Avenue, (P.O. Tarrytown, NY). Applicant is requesting area variances from Section 285-16(B)(4)(c) of the Zoning Ordinance to reduce a total of two side yards from 18 ft. (Required) to 16.89 ft. (Proposed); from Section 28542(C)(1) to enlarge a nonconforming structure so as to increase such nonconformance, in order to construct an addition. The property is located in an R-5 One-Family Residence District and is designated on the Town Tax Map as Parcel ID 7.160-37-5.

MS. BUNTING-SMITH: Great to have mood lighting, but of course we can't see what's on that board that you have up now.

MR. CAPPUCCI: Good evening, Chairwoman, Members of the Board. My name is Nicholas Cappucci, C-A-P-P-U-C-C-I. I work with Dan O'Connell Architects. I'm here on behalf of my clients Angel Santos and Gladys Marzan are here right now with me today.

We are proposing an addition to a non-conforming lot. We have a center one-story addition going in between two structures on the house that remains as is and that are non-conforming. We're asking an area variance to reduce the side yard setback, add setback from 18 feet to 16.89 feet. And again the only thing bringing this about was because the existing structures that are on the site are nonconforming in the setbacks.

Also what is not clear on this denial -- I guess it would be another area variance for the minimum single yard setback, it should be eight feet. And according to this, when we attach to the structure it's going to be 5.1 feet.

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Everything else that we did on this property is according to the Zoning Codes, is within the lot coverage or within the F.A.R. We're not increasing the building height. We are just looking to add this center addition and attach the two structures to make one large dwelling, for now what is going to be my client's primary residence, and move in and live in the neighborhood and community.

The dwelling is still a small size compared to all the neighboring dwellings around it, so it's not going to affect the community or impact or adversely affect the neighborhood around it.

And we are staying with a one-story structure. Again, a little bit of a hardship for my clients. He is injured and we kind of need to get into this house and start to build and get him into his new property.

Any questions?

MR. LOSAPIO: When was the house built, and the garage?

MR. CAPPUCCI: The original house built and the garage?

MR. LOSAPIO: Yes. And the garage.

MR. CAPPUCCI: 1946.

MR. LOSAPIO: And the garage was later?

MR. CAPPUCCI: The garage was 1958, so the garage was later, yes.

MR. LOSAPIO: The garage is larger than the house.

MR. CAPPUCCI: Yes. I have the square footage. The house is like 458 square feet. The garage --

MR. LOSAPIO: Very well built, by

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the way.

MR. CAPPUCCI: The addition we're proposing is about a 700 square foot addition in the middle, just connecting the two.

MS. BUNTING-SMITH: Other questions?

(No response.)

MS. BUNTING-SMITH: How long have you owned it?

MR. CAPPUCCI: Mrs. Marzan, Gladys wants to speak.

MS. MARZAN: Ask the question.

MS. BUNTING-SMITH: About how long have you owned it?

(Response from the audience.)

MS. BUNTING-SMITH: We can't hear you.

MR. CAPPUCCI: In 2017 he purchased this property.

MS. BUNTING-SMITH: Oh, okay.

MR. CAPPUCCI: So we have been going through the Building Department probably for about two years right now. So we got the idea of what can we do with this and this is our plan.

MR. SANTOS: Yes. My name is Angel Santos. I'm the owner and my wife as well, Gladys Marzan. When we purchased the place it was a small house, very cute, nice property. And we are planning to retire at the end of this year. And the fact that the bedrooms are upstairs and up and down, it's too many steps. As we get older and I got injured, we plan to extend it to have a

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bedroom built on this one level to make one level as living room and bedroom and bathroom, so we don't have to be going up and down the steps as much and enjoy the property in from there.

MS. BUNTING-SMITH: Okay.

MS. MARZAN: My name is Gladys Marzan Santos, Angel's wife. And I just want to say that we have been at this now for almost three years and it is a hazard right now. We have been living in the house but we also work -- my husband said we are planning to retire. Presently the house is a tiny, tiny house. It is approximately -- what is it, 500 plus square feet? It has a very narrow staircase. When you go upstairs, my fear is that my husband is going to fall, because the bathroom faces that staircase, and it is very, very narrow.

There are two tiny, tiny bedrooms upstairs. So we actually put, like, a pole, like, from the wall so that when he goes to the bathroom he doesn't fall down. And right now I have sister -- as I already stated -- being discharged from Sloan-Kettering, and she is being discharged to our house. She's been a resident forever in Tarrytown, a retired principal, but she was just diagnosed with leukemia and she's coming to my house. She has no other place to go. I'm a little bit concerned because she's being discharged tomorrow. So I am asking please, you know, please help me and my family modify this house. Thank you.

MS. BUNTING-SMITH: How long do you think it's going to take to do the construction?

MS. MARZAN: I think approximately three to four months.

MR. SANTOS: Probably a little longer.

MS. MARZAN: But she's coming into

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the structure tomorrow. So I'm, you know, really requesting your help, to help us, you know, modify this house to our needs, because right now this is a hardship.

MS. BUNTING-SMITH: Okay. Have you spoken to any of your neighbors? Are there any comments that they have to make about it?

MS. MARZAN: No. No.

MS. BUNTING-SMITH: All right.

MS. MARZAN: No comments. They know that the house is tiny.

MS. BUNTING-SMITH: Obviously.

MS. MARZAN: They are looking forward to see also, because it's going to enhance the community, the neighborhood. Thank you.

MS. BUNTING-SMITH: Thank you. Any other questions?

(No response.)

MS. BUNTING-SMITH: Anyone in the audience want to comment on this case?

(No response.)

MS. BUNTING-SMITH: All right. Thank you.

MR. CAPPUCCI: Thank you.

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5/16/2019 - Case No. 19-10

MS. BUNTING-SMITH: The next case on tonight's agenda is Case No. 19-10, Maria Regina High School, for a different purpose.

ZBA Case No. 19-10 - Maria Regina High School, for property located at 500 W. Hartsdale Avenue (PO Hartsdale, NY). Applicant is requesting area variances from Section 240-3(D)(1)(b) of the Sign & Illumination law to increase the number of yard signs from 1 (permitted), 2 (existing) to 8 (proposed); and to increase the size of the yard signs from 6 sq. Ft. (Required) to 8 sq. Ft. (Proposed) in order to create new yard signs. The property is located in an R-20 OneFamily Residence district and is designated on the Town Tax Map as Parcel ID: 8.130-82-1.

MS. CHIARAMONTE: Good evening. My name is Robin Chiaramonte and I represent the parents of Maria Regina High School as the current president of the Maria Regina Parents Association.

After surveying many Westchester County schools such as Fordham Prep, the Ursuline school, Iona Prep and Woodland High School, the Parent Association voted last year to gift Maria Regina banners and poles as a means to enhance the look of the High School campus.

As a part of our fund-raising efforts the Parents Association donated over \$20,000 towards the poles, banner and installation. After the purchase we discovered that we would need an approval of a variance to install the poles.

It is our intention to place six poles around the arched entrance-way of Maria Regina High School. As indicated by our variance submission, shown above, the red lights dots are the poles. We are here this evening to ask that our installation of these poles be approved by the Zoning Board,

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so that we can proceed with placement over the summer months.

Thank you for your time and consideration for this. Do you have any questions?

MS. BUNTING-SMITH: Go ahead. I was going to say, how tall will they be?

MS. CHIARAMONTE: They are 12 foot.

MS. BUNTING-SMITH: So flag poles?

MS. CHIARAMONTE: Yes. They are street banner poles. So the way it is in the picture, the pole comes up out of the ground (indicating) that way and the banner comes across. So it's a two foot by six foot banner, and it's the same as the ones that are shown at Iona Prep High School, at their entrance-way. They have six as they are going in, three on each side; if you've been to Iona Prep. Ursuline has them as well on their driveway as you drive around. And Woodland High School also has them, but they are on telephone poles, light poles. So, but they are actually held on the top and the bottom so they are banners, they are not flags.

MR. BLAND: Quick question. How did we develop the number of eight?

MS. CHIARAMONTE: Six.

MR. BLAND: Six?

MS. CHIARAMONTE: Yes. We have a sign in the middle that says "Maria Regina High School" and it's in the middle of the property. So when we went to install, you know, we looked and we did three on each side, because it's a pretty long distance to come in. And it's actually on our property in the internal side of our property.

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MR. BLAND: In terms of the number, is there any flexibility with that or is that pretty set on?

MS. CHIARAMONTE: We'd like it to be balanced, and we have six purchased, so we'd like to have six. If we need to put, you know, say, four in the front and move two to another location I'm sure we are flexible to do that as well.

MR. BLAND: Thank you.

MS. CHIARAMONTE: As long as we can install six on our property, because I can't return them.

MS. BUNTING-SMITH: What strikes me about it is the way in which the frontage of the school is exposed to the road.

MS. CHIARAMONTE: Yes.

MS. BUNTING-SMITH: In conjunction with how we are trying to not have an over proliferation of signs within the Town, and some of what you describe with Iona is really not so much out on the street, it's as you go into the property. And Ursuline is somewhat similar. And also, it's a question of setbacks and other -- and topography. Because Woodland is flat as you come in whereas Ursuline you go up into another area.

And also it's a different town with different standards for signs. So if anything that you could do to have it be not quite as imposing like it's going to be would be helpful. I didn't picture them being 12 feet tall. That kind of hits me hard, I'll be honest with you.

MS. CHIARAMONTE: Well, we went and we measured the one at Iona physically. I went and measured myself, and they are 12 feet tall. And the ones at Ursuline are

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also pretty similar in height as well, because we went physically and we also measured the flags, the banners themselves at the locations as well. So we're the same -- two by six is the same as the Iona Prep flags as well.

And we're not intending to put them across the front of the property when you're driving past the school. We're actually putting it on the archway, that's internal into the school, which is very similar to what Iona Prep has done, and Ursuline has done as well, and Fordham Prep as well.

MS. BUNTING-SMITH: I know this is maybe not what you want to think about, but because the poles are so tall, is there any way to have any foliage or something that would soften the look of these very tall poles in any way?

MS. CHIARAMONTE: We do have foliage in the front. And you know, we could put planters at the bottom of each pole as well, if that's something to invest in, or small trees.

MS. BRENNAN: Can you tell me what the signs will be?

MS. CHIARAMONTE: Yes. They will have the name Maria Regina High School, and our mission statement, which is truth -- you've got to help me out. Truth, charity and spirit, scholarship and service. So each flag will just have indication of what our mission is.

MR. BLAND: So on each sign is there a different saying?

MS. CHIARAMONTE: It will say Maria Regina High School. We have different designs. It will say Maria Regina High School, up and down, and across the bottom say truth, then the others will say Maria Regina High School, charity, Maria Regina

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High School --

MS. BRENNAN: How far apart are the poles?

MS. CHIARAMONTE: They are in a design. I couldn't -- I don't remember. I don't remember, but they are in our --

MS. BRENNAN: All right. I'll look it up.

MR. LOSAPIO: How about making the poles not so tall? Because they have not been inserted or installed yet. To compromise, would you consider that??

MS. CHIARAMONTE: As long as -- as long as the contractor can put them in the ground that way, sure.

MR. LOSAPIO: Honestly, I don't see any problem with taking, like, two feet off the -- you'd still have the same flag size and it won't be as obtrusive as I think our concerns are.

MS. CHIARAMONTE: I think the bottom of the pole flag is seven feet off the ground. So at that it's five, which is my height.

MR. LOSAPIO: So then you'd make it five, but then you'd have another seven feet?

MS. CHIARAMONTE: We also didn't want anybody to be able to play with the flags, which is something that happens. I mean, to be honest, we did, we did intentionally go to every school and we can, you know, I think go back and remeasure, but we measured every pole.

MR. LOSAPIO: You see, each Town is different.

MS. CHIARAMONTE: Yes, I agree.

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MR. LOSAPIO: So what --

MS. CHIARAMONTE: I don't know if we can install them two feet into the -- install them two feet into the ground. I'd have to ask the contractor.

MR. CRICHLLOW: You mean two feet more? Because it's already three feet into the ground.

MS. CHIARAMONTE: Yes; with cement and everything.

MS. BUNTING-SMITH: It's a metal pole.

MR. LOSAPIO: We can cut the pole.

MS. CHIARAMONTE: I think the way they are made they have a sleeve on the bottom that's constructed so that it anchors it to the cement the right way. So it's not -- the base of the pole is made to anchor into the cement so that it's wind-resistant and top of the line. So if you just put a pole in that is smooth into the cement, it eventually wears and goes back and forth and then you have a problem with wind as well.

MR. LOSAPIO: So it swivels you say?

MS. CHIARAMONTE: This won't swivel. Because you see in the diagram at the base? There is certain anchors made on this pole so that it's anchored into the cement. So it's not the smooth pole that you see above the cement. He explained that to me.

MR. CRICHLLOW: I just want to clarify. Are these banners going to be permanent?

MS. CHIARAMONTE: We can take the

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banners down. We were hoping to have the banners up during the school year and then we could take them down during the summer.

MR. CRICHLLOW: Because in the description you were saying they would be temporary for use during open house and graduations. So I just wanted to make sure I was clear.

MS. CHIARAMONTE: And we were hoping to keep them up during the summer and then the push back lot we would consider making them for certain special occasions, which we can consider as well. But we would love for you to say we could keep them up for the extension of the school year. But we're flexible.

MS. BUNTING-SMITH: How easy are they to put up?

MS. CHIARAMONTE: Very easy. There are two poles that come off the main post and they just have a little knob on the end and the banner has a sleeve that's sewn at the top and at the bottom, and you slip them on and then you can screw the little pole back in.

MS. BUNTING-SMITH: What kind of life expectancy does the banner itself have?

MS. CHIARAMONTE: Eight years. Probably more. Sometimes they fade, you know, but they are made to be wind resistant.

MR. LOSAPIO: Will they be lit at any time?

MS. CHIARAMONTE: No. We don't have lighting associated with it at all.

MR. CRICHLLOW: So when you said they were easy to remove, you're talking about the banners, not the poles?

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MS. CHIARAMONTE: Yes; not the pole itself.

MR. LOSAPIO: So the pole is permanent, not temporary as you stated in the request?

MS. CHIARAMONTE: The banner is temporary. It could be temporary, right.

MR. LOSAPIO: The banner?

MS. CHIARAMONTE: And we were asked to put that in after we came the first time.

MS. BRENNAN: There is a question about the pole. I'm assuming that they come in standard sizes, so you can get a 12 foot pole you can get a 20 foot pole, you can get a 10 foot pole?

MS. CHIARAMONTE: Yes.

MS. BRENNAN: Just out of curiosity, were there any other options to 12 feet or is that pretty standard?

MS. CHIARAMONTE: It was pretty standard.

MS. BRENNAN: Yes.

MS. CHIARAMONTE: That came from the contractor himself. Because he was afraid of going lower and having, you know, visitors, you know, you hit the pole, let's see if we can hit the banner. So we didn't want it to be intrusive. And we also have parking, sometimes people come up and they pick up their daughters during dismissal or drop-off, and so we wanted to make sure you couldn't just come out, you know, and disrupt the banner. Any other questions?

MR. HARRISON: So it would be more dangerous if it's lower, sort of a like a --

MS. CHIARAMONTE: That's what the

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contractor felt. I said I don't really want someone to be able to, you know, interact with the banner while it's up there.

MR. HARRISON: God forbid they jump and swing on it.

MS. CHIARAMONTE: Or hang, you know. The girls at Maria Regina don't do that; but we have a lot of visitors.

MR. HARRISON: Oh, they are around. My daughter goes to Kennedy Catholic so there are ways.

MR. BLAND: Do you know the diameter of the pole itself?

MS. CHIARAMONTE: Yes; five inches.

MR. BLAND: Five inches around? All right.

MR. MARTIN: This is wide; right? Five inches wide?

MS. BRENNAN: Another question. Do you know the height of the first story in Maria Regina? I'm just looking at scale.

MS. CHIARAMONTE: Oh, that I don't know. Perhaps our friends will know. The height of the first story of Maria Regina? Our entrance-way is over 10 -- it's very high, our entrance.

MS. BUNTING-SMITH: You have to come up if you want to be heard on the microphone.

MS. DECKER: Hi. I'm Rosemary Decker. I'm the principal. I'm not really good at dimensions, but I know that the front of the school is just one-story.

MS. BUNTING-SMITH: Right.

MS. BRENNAN: Right.

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MS. CHIARAMONTE: So whatever that standard would be, so it's not very tall.

MS. DECKER: And this would be the building (pointing) and then the driveway, and then the poles would be there (indicating). And I do want to say just how much these women worked for our school, and how much they love our school. So this was really just a means for them to try to enhance the school; because our competitor over in New Rochelle has them and we want to, you know. So this wasn't meant as anything other than that. So it's all good intentions from the Parents Association that gives a lot of time to our schools.

MR. BLAND: Do you know the battle song?

MS. DECKER: It's not really a battle song; it's a spirited song.

MR. HARRISON: It's in my head. I can't get it out, from your volleyball games.

MS. CHIARAMONTE: That's good. We like that.

MS. DECKER: We have a few cheers, too, if that would help.

MR. HARRISON: I used to coach. Is Sister Sarah still there?

MS. DECKER: Well, Ms. Sarah, is there, yes. Once you're at Maria Regina you never leave. That's what happens.

MS. CHIARAMONTE: It's so true.

MS. DECKER: You just turn gray.

MS. CHIARAMONTE: I'm on daughter number three, so it's been a 12 year history and going.

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MS. DECKER: Thank you.

MS. CHIARAMONTE: Thank you.

MR. HARRISON: Thank you.

MS. CHIARAMONTE: Most of the detail is in the, what we sent, so if you have any other questions.

MS. BUNTING-SMITH: Anyone want to comment on this case?

(No response.)

MS. BUNTING-SMITH: Okay.

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5/16/2019 - Case No. 19-11

MS. BUNTING-SMITH: And the next case on tonight's agenda is Case No. 19-11, New York American Terminals Management, LLC.

ZBA Case No. 19-11 - Northamerican Terminals Management, LLC, for property located at 4 & 5 Warehouse Lane, (P.O. Elmsford, NY). Applicant is requesting variances from Section 28532(B)(3)(a) of the Zoning Ordinance to increase the maximum building coverage of the principal building from 15 % (permitted), 12.83 % (existing) to 22.5 % (proposed); from Section 28532(B)(3)(c) to increase the maximum total building coverage from 20 % (permitted), 17.7 % (existing) to 31 % (proposed); from Section 285-32(B)(5) to reduce the distance from the offstreet parking area to the side lot line from 25 ft. (Required), 3 ft. (Existing) to 2 ft. (Proposed); and from Section 285-39(C)(8) to subdivide an improved lot in a manner that does not conform to the zoning regulations regarding the existing building and other spaces related thereto, in connection with a proposed two-lot subdivision. The property is located in an LI-Light Industrial District and is designated on the Town Tax Map as Parcel ID: 7.180-52-20..SE and 7.180-52-20..SP.

MR. LOSAPIO: Would you put the lights on?

MR. STEINMETZ: I was just going to ask you. Good to see you all again. David Steinmetz from the law firm of Zarin and Steinmetz, representing North American Terminals Management. Here this evening with me, essentially co-counsel in connection with the matter, is Diana Kolev, from Donnellan, DelBello, representing Robert Martin Company.

It's kind of an interesting interaction; I think it's kind of a simple application once you understand what we're doing and why.

This involves the Warehouse Lane,

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series of warehouse buildings as well as the adjacent quarry site. Many of you may or may not realize it was zoned by Mack-Cali/Robert Martin for a number of years. It's about a 33, 34 acre site; a couple of different warehouse buildings all connected to, in conjunction with a roadway Warehouse Lane, with a quarry site at the southern end.

My client came along at the end of 2018 interested in purchasing the warehouse buildings. No desire to purchase the quarry site. And interestingly enough, Robert Martin was interested in hanging on to and retaining ownership of the quarry site.

The issue that we had was there were a number of financial and tax reasons why that transaction needed to close by the end of 2018. We were mindful of that. So what we agreed to do, transactionally, was simply accept a conveyance of the warehouse buildings, the warehouse site and not the quarry. The quarry would be retained by Robert Martin. So we knew we could accomplish that by a metes and bounds conveyances from seller to purchaser.

We also knew that that would mean we'd have to come into the Town after the conveyances, after the recording of the deeds, and then subdivide along the lines that we had divided it up by metes and bounds description. Knowing that we would ultimately appear here, knowing that we would ultimately appear in front of your Planning Board, and knowing that we were doing this before obtaining the subdivision, we reached out in mid December of 2018. We conferred with Garrett Duchesne, your Commissioner of Development. We've conferred with David Fried, your Planning Board attorney. And we explained -- both Peter Wise, representing Robert Martin and myself representing North American Terminals Management -- precisely what we were doing and why we were doing it. So we disclosed

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to the Town right up front the concept, the reasoning, and the game plan. No problem.

The issue in terms of numbers, as a result of creating the line where we have created the line, the property with the warehouse buildings ends up mathematically with larger coverage variances -- which I'll get to in a moment -- as well as a parking setback variance, again, all because of a line drawing exercise. So take a step back with me.

I'm here tonight, nothing is going to change in the Town of Greenburgh. The same cars, the same trucks, the same movement, essentially the same people sitting at desks is all going to occur in these warehouse buildings exactly as they always have. You never knew them. You never saw them. They are there. Tomorrow the same people will be sitting at the same desks, the same trucks will be coming and going, whether we grant variances or not. This is simply an issue of ownership. So because my client came in and didn't want to own everything we needed to go through this exercise. Because the seller wanted to retain the quarry site, we needed to go through this exercise.

So two things are happening in the Town simultaneously. One, there is a subdivision presently pending before your Planning Board. And last night Diana and I are pleased to tell you the Planning Board (A) issued a Negative Declaration and they are poised to grant the subdivision application. And (B) they took no position with regard to the variances. And I want to just drop a footnote on that.

Having appeared in front of your Planning Board several times on this matter, some of them wanted to endorse the variances, but they were reluctant to take an official position and leave your Board to believe that in any way they were

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supplanting your authority.

As I'm sure you saw from today's memo that we got from staff, although a motion was made to support and advocate for the variances and two people wanted to vote in favor of that, others -- and you have many -- some very passionate folks on your Planning Board -- felt that it was more appropriate to just simply step back and not take a position.

I know what they were essentially doing was saying to you, they don't oppose the variances. They asked a number of questions as to why we were doing this. That's why you got the brief explanation tonight, because Diana and I have now been through this several times with the Planning Board.

So, why are we here? We're here, number one, because there are a series of parking spaces that have been here for years. They are not moving. The same cars are going to be there tomorrow that were there today, but because of the way Diana and I have now drawn the line to accommodate her client, those parking spaces will be two feet from the new property line. The Code requires that they be 25 feet from the property line. So we need a mathematical variance because of the line drawing exercise.

Number two, I have buildings on the site. I'm not changing the buildings. I'm not changing the parking. I'm not changing the asphalt. I'm not changing the size of the buildings. But because of your coverage requirements, by taking away 14 acres -- 14 acres and leaving the 14 acres on the quarry side, and retaining all of the coverage -- because I get to keep the buildings, they get to keep the quarry. By retaining the buildings I end up taking my coverage and my coverage numbers go up mathematically.

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So as your professional staff has indicated, though the principal building coverage requirement the Code is 15%, I bump up to 22 and a half percent because I'm losing land area. And the total building coverage bumps up to 31 percent, again, because I'm losing land area.

So while we're here for three different variances, in essence all we're here doing tonight is confirming that the Town understands, the taxes are going to be paid, the trucks are going to drive, the people are going to work, but ownership has been divided.

It's really quite simple once you boil it down to that. In terms of the five factors benefit to the applicant, tremendously, dramatically outweighs any detriment to the community. There are no negative impacts to the community. Nothing is changing. In terms of substantiality, adverse environmental impact, character change to the community, we're not changing anything. There is no change to the character of the community.

Yes, as a result of this application, we're creating this ourselves; but in term of the totality of circumstances there is really nothing negative occurring; and as you all know, self-created hardship is not in any way a dispositive factor.

So, in sum, we are asking your Board to allow us to obtain these three variances -- I should say one thing in anticipation of a question. There is a strange property line that we've drawn, and your Planning Board asked the question after Diana and her client -- no, I asked the question, why the heck are you guys drawing that line with a zigzag? Why don't we just draw a straight line? My client can keep a straight line, you can keep a straight line and I probably reduced the parking setback variance somewhat.

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With us this evening if you need a better explanation, is one of the representation of Robert Martin. That line is drawn purely for topographic reasons. The Planning Board inquired, the staff conducted an investigation. If in fact the quarry site is ever further developed and a road is brought in in that area -- which is one of the areas that you would bring a road in to access the balance of this quarry site -- it would need to meander in. So what Robert Martin requested and my client acceded to, was a lot line that follows where this road would be. So it would be nice and easy for us -- we had no objection to a straight line. But when our seller asked to draw the line in a more practical location, this is what ends up happening. It ends up with a zigzag. We explained this to the Planning Board.

And, again, I have to underscore, that the Lead Agency, the Planning Board here concluded that there was no adverse environmental impact. They issued a negative declaration, knowing that we had drawn the line where we drew the line.

So, I wanted to anticipate that question, because it is a little odd when you look at the line drawing that we have gone through, this is why. That's it.

I'm happy to answer any questions. Diana and Rocco are here. If you have any questions in terms of the line, the grading, but we would, Madam Chair, Members of the Board, ask you to support the variances. The conveyance occurred. There is an unwinding provision, if the subdivision wasn't granted. We anticipate the subdivision will be granted; but the subdivision can't be granted without knowing that the variances would be granted.

MS. BUNTING-SMITH: We can't unwind the line though?

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MR. STEINMETZ: The what?

MS. BUNTING-SMITH: The line. I think maybe we should hear from Robert Martin at this point. Because the way you're presenting it it sounds as though the line is being drawn this way, in fact, because of their requests.

MR. STEINMETZ: Right.

MS. BUNTING-SMITH: But you've admitted that it does increase one of the variances.

MR. STEINMETZ: It does.

MS. BUNTING-SMITH: But then what caused me to really be concerned and ask the question, is that you said that this would allow a road to come in and that it would be one of the locations I believe -- or something similar to that -- that would be appropriate to put a road. So it sounded as though there were other avenues of having a road besides using this particular location by drawing a line this way. And that's what I wanted to find out.

MR. STEINMETZ: I'm going to let Rocco handle that. Diana, that's up to you.

MR. SBLENDORIO: Good evening, Madam Chairperson and Members of the Board. Rocco Sblendorio from the Robert Martin Company.

The reason that the line was cut is because -- well, first of all, the property is not being planned to be developed in any way. If you look at the map that's in front of you you'll notice on the left side or the east -- the south-eastern side, there is a large -- there is a very high mountain here (indicating). This is 310 foot high slope on this piece of property, from the access road on the lower side to the Saw Mill parkway on the upper side.

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This is (indicating) the access road to the animal shelter at the top is the Saw Mill Parkway and the Con Edison high-tension right-of-way. From this point (indicating) up here, doing this upside down, from this point up here there is a -- I'm sorry -- it's a 180 foot from this point to that point. It's a very Steep Slope. There is only a small amount of property located at the very top which has a reasonably flat area which may in some way be developed.

On this portion of the site (indicating) is the Thalle Quarry, which is in operation every day. And they chip off bits of that mountain every day and they make a steep cliff right along here (indicating). Right along here (indicating) is the steep cliff. It's about 90 feet high at this point. Every day they chip away toward the north to make that flat area bigger.

Right now they rent that property from us, and we have no other use for the property at this time, but we don't want to give it up either. We own it and we want to keep it. The only way to get a road to the top of that mountain is to enter right here (indicating), which is the end point of the existing roadway.

Directly across there is a short flat area, which we could bring a road and snake it around -- snake it around here (indicating), back across, up and around to get to the flat part. Again, the topography there is extremely steep and we would have to cut a path to get there. We can't go any further to the south because the quarry is taking the land away. We can't build a road there. We can only build a road against the new proposed property line and wind our way up to the top of the hill. It's the only reason -- it's the only place we can put a road, right at the beginning of Warehouse Lane, directly across from Warehouse Lane.

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Anything else further to the south is unworkable.

Further to the north is not our property anymore, so that is the only place. But the Board must understand, we have no intention of putting that road in any time soon, because we're not really planning to develop property. If in fact we ever should we would come back to the Court for a site plan approval.

MR. STEINMETZ: That last point. I want to make sure there is no application for the Town -- there is no intent or anything before the Town right now to change the grade or put in that road. So the only reason this was being done is, to the extent that we were dividing ownership and now is the time we're drawing lines. To the extent we're drawing lines, the quarry is smart enough -- Robert Martin is smart enough to, say "Let's draw the lines now that might make sense with regard to a road in the future."

If the application was -- if the subdivision application was withdrawn and we all go home and my client ends up owning the entire property and leasing the quarry back to Robert Martin, the same road possibility could occur in the future, there just would be no lot line there.

So, again, I know it sounds a little unusual potentially for the Board. This is purely a line drawing exercise. We've chosen to draw the line in what appears to be the most practical location in terms of these two parties. Drawing the line in this location (indicating), as the Chair has identified, does create an issue with regard to about 20 of the parking spaces sit right adjacent to where we're now drawing the line; as a result of which I'm bringing the line two feet to within the location where those cars are right now. I need a 23 foot parking setback variance as a result of it.

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The other parking on this site is also proximate to the property lines, so there is nothing all that unusual in a warehouse district for parking to be near lot lines. I hope that's clear.

MS. BUNTING-SMITH: Okay. Any questions?

(No response.)

MR. STEINMETZ: Thank you all.

MS. BUNTING-SMITH: Anyone in the audience want to address this?

MS. KOLEV: Diana Kolev from DelBello, Donnellan. I want to say, obviously we're in support of this application. If you have any further questions from us.

MS. BUNTING-SMITH: All right. All right.

* * * * *

5/16/2019 - Case No. 19-12

MS. BUNTING-SMITH: Moving on to our last case on our agenda for this evening, Case No. 19-12, Fred Astaire Dance Studio. ZBA Case No. 19-12 - Fred Astaire Dance Studio, for property located at 611 W. Hartsdale Avenue (P.O. Hartsdale NY). Applicant is requesting a variance from Section 285-27(B)(3) of the Zoning Ordinance to increase the maximum Floor Area Ratio (F.A.R.) from .30 % (permitted) to .39 % (proposed) in order to occupy the basement floor. The property is located in a LOB-Limited Office Building District and is designated on the Town Tax Map as Parcel ID: 8.141-94-22.

MS. BUNTING-SMITH: Let the music begin.

MR. ADAMS: I wish there were. My name is John Adams. I'm the architect for the dance studio and my client is also here, the owner of the dance studio.

MS. BUNTING-SMITH: Speak up a little.

MR. LOSAPIO: If you would. There you go.

MR. ADAMS: So we're here tonight because my client -- who has been in the neighborhood since 1995 -- has decided he wants to move to this building at 611 West Hartsdale. And he's proposing to take 5,159 square feet in the basement of the building. So currently the basement of that building is unoccupied and the use of the basement is tenant storage and mechanical. The way -- the way that the Zoning Code was defined in terms of gross square footage, gross floor area for commercial buildings, when the use changes in a commercial building from storage space in the basement to tenant space that square footage has to be added to the gross square footage of the entire building.

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When that happens, in our case, the 5,159 square feet, when added to the existing square footage of the building, causes the F.A.R. to be exceeded and the building currently is built to 0.3 F.A.R., which is the Code limit. And this additional square footage (indicating), due to the change of use would require -- or would generate an F.A.R. of 0.38. So we're here asking you for relief from the strict application of that section to allow us the additional square footage 159 and the additional F.A.R. that results from that of 0.38.

When you look at our zoning calculation chart, our proposal is non-conforming, as you just mentioned. And there is additionally non-conforming that results for the parking. And one thing that's happened since we submitted our application, is that we went for the Planning Board in conjunction with an additional item. We proposed to move to the building and we were granted our shared parking reduction last night.

So the issue -- which was one of the possible negatives to the application in terms of increase of an applicant's -- also increase the parking, et cetera, that has been resolved. And it's principally resolved because of the fact that my client and his uses tend to overlap -- they don't overlap essentially with the daytime uses of the office building. In other words, the dance studio is mostly operating in the evenings and then also on the weekends. So there is really no great overlap between the other tenant in the building, so that was the basis of that application and successful resolution.

So basically our argument is that we feel that this application should be favorably viewed by the Board principally because the effect of expanding the F.A.R. in this case, usually when you're expanding

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the F.A.R., it's associated with expanding the mass of the building, is what they use to control the mass of the building, but in this case there will be no expansion of the building. There will be no effect on the outside of the building whatsoever. It's almost a technical variance; because, usually, in the spirit the Code the F.A.R. is tied not only to the mass expansion of the building but also to the change of use. So really, what's actually changed in this case is not anything to do with the envelope of the building, it has to do with the change in views.

So we feel that as long as the Board is comfortable with the change of use, and there is no net effect on the outside of the building or the mass of the building, the building itself is already -- I think it fits perfectly in terms of the neighborhood. It's the same height. It's not a massive building to begin with. So there is really no even existing impact to be concerned about.

So I guess the main point is that there is really no net effect. There is no net effect in terms of the F.A.R. or the mass. The only real net effect that we can imagine, as I mentioned before, was the need for parking, and that's already been addressed.

On the other hand, the benefit to the dance school I think is substantial. It's a cherished institution in this neighborhood, and they have been searching for two years in a new space. It's been difficult to find an upgraded space to a more Class A building because of the associated costs with that type of building. But in this case, because it's in the basement, it's almost a perfect application for that. They get the additional square footage that they need. Because it's in the basement the point is less. So that's a perfect thing. And also because of their

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use in the basement they are not going to be creating any noise for the neighborhood, or there won't be any negative impact that way. And, you know, they don't use daylight because they are operating in the evenings. So it's really like a perfect space for them.

Yes, I think those are basically our points. Any questions?

MS. BUNTING-SMITH: The square footage that you mentioned proposed there?

MR. ADAMS: Yes.

MS. BUNTING-SMITH: And is that the entire basement or is that a portion of it?

MR. ADAMS: No. Some of the existing uses of the basement are going to remain. So the ones that are hatched are actually to be used by the dance studio, and then the open areas continue to be tenants' storage, storage for existing tenants in the building and mechanical space, and those type of spaces are excluded from gross floor area.

MS. BUNTING-SMITH: Questions?

MR. HARRISON: No.

MR. BLAND: This is the proposed site; correct?

MR. ADAMS: Yes, that's it.

MS. BUNTING-SMITH: That's it.

MR. HARRISON: That's it.

MR. ADAMS: I should also add, I mean, I don't want to bring this up, but there is an additional layer of hardship for my owner because, you know, we submitted this same proposal to the building

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Department, and it went through and was granted a permit. And it's been under construction for the last few months until it was realized that there was, you know, a variance issue in terms of this use. So he's kind of hanging out there, having invested a lot of money for the innovation, so it's not an abstract hardship at this point.

MS. BUNTING-SMITH: So, in other words, you've already leased the premises?

MR. ADAMS: Correct.

MR. CRICHLow: Started renovation work?

MR. ADAMS: Yes; about 80 percent finished at this point.

MR. CRICHLow: What?

MR. ADAMS: It's about 80 percent.

MS. BUNTING-SMITH: 80 percent?

MR. ADAMS: 80 percent complete.

MR. CRICHLow: Okay.

MR. LOSAPIO: How long was 611 empty?

MR. ADAMS: I can't answer that question myself, but the building owner.

MS. BUNTING-SMITH: How many years?

MR. ADAMS: It looks like that's turning around, though.

MR. DROGAN: Hi. Dennis Droган. The building sat empty for quite some time due to circumstances, running out of money with the past owner. Presently we have a new owner. And that new owner has been looking for the right tenant and also

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working with the Town to try to find local people to move in. Fred Astaire was actually perfect for the building in taking that space. Absolutely perfect. When they came to the table, everyone liked them from the building; and Paul as well, Paul Feiner. And everyone is aware of the situation that's been going on with that building being empty for a very long time. Construction started at 2004 and we have C.O. in 2017. So we're filling up. If everything goes well.

As John stated, 80 percent of the build-out has already been done. The Building Permit has been successfully processed. So one stipulation about where the usage was was the basement. The first floor was all detailed in the plans, so we hit one snag, but it's all being worked on. We're here today -- and a year ago we were actually asking for the variance to get a dance studio added to the zoning as a change of use. So we had that removed a year ago and it all worked out. So we knew it was a basement then and it's still a basement today.

The building is fully sprinkled; has plenty of egress in the rear; double sheetrock all the way around. It's a very secure, safe and energy-efficient building. So I think it's a good opportunity, you know, for us to take Fred Astaire as the tenant as we did, and we'd like to keep them as a tenant and not have any issues moving forward. Thank you.

MS. BUNTING-SMITH: And you worked out the parking?

MR. DROGEN: The parking is actually great. We actually have an extended green space right now. We could squeeze in four to six more parking spaces, but that would work with the Building Department if necessary. But currently with this new tenant that's coming in they are

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non-conflicting of who is actually coming in. So I think there is a 10 space ratio of what they would need normally, and we have a 64-space parking lot, including some handicapped spaces. So nothing would be conflicting to the amount of people that would need parking. The other tenant is a dialysis client moving in. Hopefully if everything goes well, and two-thirds of their clients will be brought in by public transit, buses, shuttles, loved ones. There will be no overlapping for the client as well, so nobody will be staying in the parking lot; quick in, quick out. The works department.

MR. MARTIN: Before you go out of the room. How many other tenants are there the besides them studio?

MR. DROGAN: Currently there is two other tenants.

MR. MARTIN: And your idea would be that there would be three at the end of the day?

MR. DROGAN: There will be three at the end of the day today.

MS. BRENNAN: I HAVE just a little question that's related directly. How will you be identified on the street? Right now you see "Fred Asataire Studios." What is the thought process about acknowledging signs?

MR. DROGAN: The signage is very important. We're actually waiting for the tenants to come in, and we're developing signs, so they are subject to change who is coming in and how we're going to identify that. Once again, we'll be going in front of the Planning Board, going over signs and so forth, and stipulations as to what we're going to use. So that will all be brought to your attention.

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Right now we have a small little cut-out and it's working rather well. It's embarrassing but it's working. But we're going to get there, so don't worry. Don't worry. The building has been empty for quite a long time, and we're trying to get the tenants, having a good feel for the community is key.

MS. BUNTING-SMITH: Any other questions? Anyone in the audience?

(A resident approached the podium.)

MS. BUNTING-SMITH: Anything?

MR. ADAMS: I just have one final word.

MS. BUNTING-SMITH: There is someone from the audience. Hold your final word.

MR. VASENDIN: Good evening. My name is Oleg Vasendin. I'm basically the guy who is running the Fred Astaire Dance Studio. Me and my wife been doing this for 25 years and we have been lucky to find this place. We have been looking for a long, long time. That's basically the only and the best place we could ever find. It's in a basement. We're hiding from people. We are insulating, the sound, not to bother anybody. It's a huge open space. We have students from 100 years old to 10. And it's not an exaggeration. And they are looking forward to move into the new place, because the old place at 25 West Hartsdale Avenue is falling apart and leaking and we are suffering. So if you will be able to allow us to start building as soon as possible we have a chance to survive. Thank you.

(Mr. Vasendin was asked by the Court Reporter to spell his name.)

MR. VASENDIN: O-L-E-G.
V-A-S-E-N-D-I-N.

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MS. BUNTING-SMITH: Let me ask you something before you leave.

MR. VASENDIN: Sure.

MS. BUNTING-SMITH: Does this -- is this space an improvement space-wise over where you are now, volume, I mean?

MR. VASENDIN: Yes. It's like five times bigger.

MS. BUNTING-SMITH: Five times bigger? Does that mean you'll be holding any type of conventions or programs or things that would be different than what you're doing now?

MR. VASENDIN: Yes. Because of the bigger footage we're planning, which we did before in our now space, but it was very uncomfortable and we had to rent a hotel or something like this. This will allow us to run events, something that you're familiar with, Dancing With the Stars, just much better.

We mention a combination of 100 year olds, 101, dancing with a 10 year-old partner. It's something amazing and we invite our students. It's like, "Look, people, this is what we've accomplished for the last couple of months." This is the event that will attract people. We're hoping to grow using children. We never had a chance to run group lessons. We only had a chance to run private lessons. Now we have a big space enough -- and enough parking in the evening -- to run group lessons with children from this area. This is the best place.

MS. BUNTING-SMITH: Any other questions?

(No response.)

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MR. ADAMS: Thank you.

MS. BUNTING-SMITH: Now you can do the last one.

MR. ADAMS: Yes, I wanted to. I wanted to add the note that the Planning Board approval for the shared parking reduction, is also based specifically on this use. So if the use were to change, if Fred Astaire Dance Studio was to leave, that would all be re-examined and renegotiated. So again, as I said, the variance principally has here to do with the change of use. So even that use is, you know, irrelevant, not a continuation in that sense, from the point of view of the parking situation.

MS. BUNTING-SMITH: Okay. Thank you. And with that we are adjourned for our deliberations. And as I said, you can join us back there just listen, though.

(Whereupon, at 9:40 p.m. the Board retired to deliberate and at 10:35 p.m. the Board returned to the auditorium.)

5/16/2019 - Case No. 18-33

MS. BUNTING-SMITH: Are we ready? Okay. All right. We are back on the record with respect to our deliberations for this evening. And the first case is Case No. 18-33, Marco Persichillo Trust.

Whereas, the Greenburgh Zoning Board of Appeals has reviewed the above-referenced application with regard to S.E.Q.R. compliance; and whereas the Greenburgh Zoning Board of Appeals determined the application will not have a significant impact on the environment:

Now, therefore, be it resolved, that the subject application is a Type II Action requiring no further S.E.Q.R. consideration.

MR. CRICHLLOW: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. CRICHLLOW: Aye.

MR. MARTIN: Aye.

MR. HARRISON: Aye.

MR. BLAND: Aye.

MS. BUNTING-SMITH: And the Chair votes aye. Do I have a motion?

MR. HARRISON: Yes, I do, Madam Chair. I move that the application in Case No. 18-33, be denied.

MR. MARTIN: Second.

MR. BLAND: Yes.

MS. BUNTING-SMITH: All in favor?

MR. LOSAPIO: Aye.

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MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye.

MR. HARRISON: FINDINGS. In denying this application --

MRS. WALKER: Excuse me, Barbara. Did you vote? You have to say "abstain."

MS. BRENNAN: Abstain.

MR. HARRISON: Okay.

FINDINGS:

In denying this application the Zoning Board has weighed the benefit to be derived the applicant from the proposed variance against the impact that the variance would have on the surrounding neighborhood. We have found that:

Number 1. Granting the variance will result in a detriment to nearby properties and will adversely impact the character or physical or environmental conditions in the neighborhood or district. Currently, the property has a two-car garage. The applicant's additional six-car garage, which would bring the total to an eight-car garage, is outrageous for a residential neighborhood. An eight-car garage will severely harm the neighborhood and set a bad precedent.

Number 2. The requested variance is substantial in relation to the request sought to be varied in that the variance is eight compared to three (required) for 62.5 percent increase.

Number 3. The goal of the applicant cannot be achieved by some other feasible means

5/16/2019 - Case No. 19-05 & 19-02

without requiring a variance. The Applicant currently uses a two-car garage on the property and can use off-site facilities to further his interest in cars.

Number 4: The Applicant's need for the variance was self-created. I just went above.

MS. BUNTING-SMITH: Thank you.

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MS. BUNTING-SMITH: And Case No. 19-02, DJF Real Estate Holding Corp is adjourned for all purposes to June 20th.

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5/16/2019 - Case No. 19-05

MS. BUNTING-SMITH: The next case is Maria Regina High School, Case No. 19-05.

WHEREAS, the Greenburgh Zoning Board of Appeals has reviewed the above-referenced application with regard to S.E.Q.R. compliance; and WHEREAS, the Greenburgh Zoning Board of Appeals has determined the application will not have a significant impact on the environment; now, therefore, be it resolved that the subject application is a Type II Action requiring no further S.E.Q.R. consideration.

MR. MARTIN: Second.

MR. CRICHLLOW: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLLOW: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye.

And I move that the application in Case No. 19-05, be granted, provided at that time applicant obtain all necessary approvals and file same with the Building Department, and that the variance and Special Permit being granted are for the improvements shown on the plans submitted in support of this application only. Any future or additional facilities or uses to be used or made that are not in conformity with the requirements of the Zoning Ordinance shall require variances, even if they conform to the height, setback or other

5/16/2019 - Case No. 19-05

variances we have approved herein.

Second?

MR. MARTIN: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye.

And with respect to findings. Due to the lateness of the hour today and the fact that there is some type of athletic sport going on that people have an interest in, the findings are in the record and also will be available.

(The findings were inserted by the Court Reporter.)

FINDINGS:

Applicant requests variances and a special permit to conduct seasonal camp programs at its school. Apparently, the camp has been operating at the site for years without a special permit and without complaint from nearby property owners. Applicant stated that because it had already received a special permit for its primary use as a school, and the seasonal camp enrollment is smaller than its school enrollment, it assumed that its special permit encompassed the smaller, and essentially similar use for the camp.

5/16/2019 - Case No. 19-05

A. SPECIAL PERMIT

In order to obtain a special permit the applicant must satisfy the Board that the proposed use is of such character, intensity, size and location that it will: (1) be in harmony with the orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts; (2) will not impair the use, enjoyment and value of adjacent residences; and (3) will not be hazardous or detrimental to the prevailing residential character of the neighborhood.

Applicant's proposed use satisfies the criteria for the special permit because the use of its facilities for a summer camp will not be detrimental to the use or enjoyment of the adjacent district, which is characterized by office buildings and other schools, or be significantly different from the existing use of its facilities for a school; in fact, it will be less intensive than the existing school use because the camp enrollment is smaller than that of the school.

B. VARIANCES:

Although the proposal does not meet the setbacks contained in the specific criteria for granting a special permit for such use, we hereby grant variances from such criteria. In granting such variances we have balanced the benefit to the applicant from the proposed variances against any detriment to the neighborhood and find that:

1. The variances will not alter the character of the neighborhood and will not adversely affect the use and enjoyment of nearby properties or environmental conditions in the area. As noted, the area in immediate proximity to the site is characterized by office buildings, a large stand-alone restaurant and other schools. Moreover, as noted, the school use has been in existence for several years without complaint from the neighborhood and the

5/16/2019 - Case No. 19-05

camp use that is the subject of this application will make use of the same facilities with the same setbacks, but will have a small enrollment--and therefore a smaller impact--than the principal school use.

2. Although the setback variances are substantial, it must be noted that no new construction is contemplated by this application. The camp use will use the same facilities that are utilized by the school use that has existed for many years without complaint. Moreover, the impact of the proposed camp use will be less than the impact of the school use because the camp enrollment is much smaller than that of the school.

3. The applicant has no feasible alternatives to the variances. As noted, the structures that are the subject of the variances already exist and are not being altered or enlarged so as to increase their conformity.

4. Finally, the applicant's difficulty is self-created, since it entered into leases with the camp with knowledge of the physical constraints of the property and the requirements of the Zoning Ordinance, but such fact does not require denial of area variances.

For the foregoing reasons, we hereby GRANT the variances required for the issuance of the special permit herein, and the special permit itself.

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5/16/2019 - Case No. 19-07

MS. BUNTING-SMITH: And we will move on to the next case we have on tonight's agenda, which is Case No. 19-07, the Solomon Schechter School of Westchester County.

WHEREAS, the Greenburgh Zoning Board of Appeals has reviewed the above-referenced application with regard to S.E.Q.R. compliance; and WHEREAS the Greenburgh Zoning Board of Appeals has determined the application will not have a significant impact on the environment; now, therefore, be it resolved that the subject application is a Type II Action requiring no further S.E.Q.R. consideration.

MR. HARRISON: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye.

And I move that the application in Case No. 19-05 be granted, provided that --

MR. MARTIN: I'm sorry. 19-07.

MS. BUNTING-SMITH: What did I say?

MR. MARTIN: Five.

MS. BUNTING-SMITH: I'm sorry. Do you know why? Because there is a typo here. It says 07 here but it says 05 on this line.

5/16/2019 - Case No. 19-07

I move the application in Case No. 19-07, be GRANTED, provided that:

1. The applicant obtain all necessary approvals and file same with the Building Department:

The variances and Special Permits being granted are for the improvements shown on the plans submitted in support of this application only. Any future or additional facilities or uses to be used or made that are not in conformity with the requiring of the Zoning Ordinance shall require variances even if they conform to the height, set-back or other variances we have approved herein.

MR. CRICHLLOW: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLLOW: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye.

FINDINGS:

The Applicant requests variances and a special permit to conduct seasonal camp programs at its school. Apparently the camp has been operating at the site for years without a special permit, and without complaint from nearby properties. Applicant stated that because it had already received a special permit for its primary use as a school and the seasonal camp enrolment is smaller than its school enrollment, It is assumed that its special permit encompassed the

5/16/2019 - Case No. 19-07

smaller and essentially similar use for the camp.

A. SPECIAL PERMIT:

In order to obtain a special permit the applicant must satisfy the Board with the proposed use of such character, intensity, size and location that it will (1) Be in harmony with the orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. (2) Will not impair the use, enjoyment and value of adjacent residences, and (3) will not be hazardous or detrimental to the prevailing residential character of the neighborhood.

Applicant's proposed use satisfied the criteria for the special permit because the use of its facilities for summer camp will not be detrimental to the use or enjoyment of the adjacent district, which is characterized by office buildings and other schools, or be significantly different from the existing use of its facilities for a school; in fact it will be less intensive than the existing school use because the camp enrollment is smaller than that of the school.

Section B Variances:

Although the proposal does not meet the setbacks contained in the specific criteria for granting a special permit for such use, we hereby grant variances from such criteria. In granting such variances we have balanced the benefit to the applicant from the proposed variances against any detriment to the neighborhood and find that:

1. The variances will not alter the character of the neighborhood and will not Adversely affect the use and enjoyment of nearby properties or environmental conditions in the area. As noted, the area in immediate proximity to the site is characterized by office buildings, a large, stand-alone restaurant and other schools. Moreover, as noted, the school

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use has been in existence for several years without complaint from neighbors. And the camp use that the subject of this application will make use of the same facilities with the same setbacks, but will have smaller enrollment -- and therefore a small impact -- than the principal school years.

2. Although the setback variances are substantial, it must be noted that no new construction is contemplated by the application. The camp will use the same facilities that are utilized by the school use that has existed for many years without complaint. Moreover, the impact of the proposed camp use will be less than the impact of the school use because the camp enrollment is much smaller than that of the school.

3. The applicant has no feasible alternatives to the variances. As noted, the structures that are the subject of the variances already exist and are not being altered or enlarged so as to increase their non-conformity.

4. Finally, the applicant's difficulty is self-created since it entered into the leases with the camp with the knowledge of the physical constraints of the property and the requirements of the Zoning Ordinance, but such fact does not require denial of area variances.

For the foregoing reasons, we hereby GRANT the variances required for the issuance of the special permit herein, and the special permit itself.

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5/16/2019 - Case No. 19-08

MS. BUNTING-SMITH: The next case on tonight's agenda is Case No. 19-08.

MR. LOSAPIO: 08.

MS. BUNTING-SMITH: Case No. 19-08, Nesto's.

WHEREAS, the Greenburgh Zoning Board of Appeals has reviewed the above-referenced application with regard to S.E.Q.R. compliance; and WHEREAS the Greenburgh Planning Board, as Lead Agency, conducted a coordinated review and determined that the subject application is a unlisted action; WHEREAS, the Zoning Board of Appeals of the Greenburgh has determined that the proposed action will not have a significant adverse impact on the environment, and issued a Negative Declaration on May 15th, 2019.

MR. MARTIN: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye. Do I have a motion?

MR. CRICHLow: I do, Madam Chair.

I move that the application in Case No. 19-08, be GRANTED, provided that the applicant obtain all necessary approvals and file same with the Building Department;

5/16/2019 - Case No. 19-08

2. That construction shall begin no later than 12 months after the granting of the last approval required for the issuance of a Building Permit and proceed diligently thereafter in conformity with the plans dated March 25th 2019 and then revised May 15th, 2019, submitted in support of this application, or as such plans may be hereafter modified by another approving board or agency or officer of the Town (provided that such modification does not require a different or greater variance than what we are granting herein.)

3. And that the variances being granted are for the improvements shown on the plans submitted in support of this application only. Any future or additional construction that is not in conformity with the requirements of the Zoning Ordinance shall require variances even if the construction conforms to the height, setback and other variances we are approving herein.

MR. MARTIN: Second.

MR. LOSAPIO: Second.

MS. BUNTING-SMITH: All in favor?

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MS. BRENNAN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye. The findings?

MR. CRICHLow: FINDINGS: In granting this application, the Zoning Board has weighed the benefit to be derived by the applicant from the proposed variance against the impact that the variance would have on the surrounding neighborhood. We have found

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that:

1. Granting the variance will not result in a detriment to nearby properties and will not adversely impact the character or physical or environmental conditions in the neighborhood or district (provided that the conditions are fully complied with), because, although the parking lot will expand into the front yard there will remain at least 16 feet of grassy area from the curbing of the proposed expansion to the sidewalk. There are also adjacent properties across from Old Kensico Road and Route 119 with similar parking lot developments. This will also reduce the potential for cars to back up on Old Kensico Road.

2. The goal of the applicant cannot be achieved by some other feasible means without requiring the variance we are granting now because the area of the proposed parking lot is the only viable location on the site, making the area variances associated with this work the only method for bettering the subject property.

And 3. The coverage variance is not substantial in that the requested relief is 83.2 percent versus the 81.4 percent (required) which is only a 1.5 percent increase. The three parking setback variances are substantial in relation to the relief sought in that they range from 70 percent, 80 percent and 86 percent increases.

The applicant's need for the variance was self-created, because he/she/it purchased the property with knowledge of the requirements of the Zoning Ordinance; however, the fact that an applicant's need for an area variance is self-created does not, by itself, require us to deny an area variance.

* * * *

5/16/2019 - Case No. 19-09

MS. BUNTING-SMITH: The next case on tonight's agenda is Case No. 19-09.

WHEREAS, the Greenburgh Zoning Board of Appeals has reviewed the above referenced application with regard to S.E.Q.R. compliance; and WHEREAS the Greenburgh Zoning Board of Appeals has determined the application will not have a significant impact on the environment; now, therefore, be it resolved that the subject application is a Type II Action requiring no further S.E.Q.R. consideration.

MR. MARTIN: Second.

MS. BUNTING-SMITH: All in favor?

MS. BRENNAN: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye. Do have I a motion?

MR. BLAND: Yes, Madam Chair, we do have a motion. I move that the application in Case No. 19-09, be GRANTED, provided that:

1. The applicant obtain all necessary approvals and file same with the Building Department;

2. Construction shall begin no later than 12 months after the granting of the last approval required for the issuance of a Building Permit and proceed diligently thereafter in conformity with the plans dated March 27th, 2019, submitted in support

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of this application, or as such plans may be hereafter modified by another approving board or agency or officer of the Town (provided that such modification does not require a different or greater variance than what we are granting herein);

3. The variances being granted are for the improvements shown on the plans submitted in support of this application only. Any further or additional construction that is not in conformity with the requirements of this application only. Any future or additional construction that is not in conformity with the requirements of the Zoning Ordinance shall require variances even if the construction conforms to the height, setback or other variances we have approved herein.

MR. MARTIN: Second.

MR. CRICHLow: Second.

MS. BUNTING-SMITH: All in favor?

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MR. HARRISON: Aye.

MR. CRICHLow: Aye.

MS. BRENNAN: Aye.

MR. MARTIN: Aye.

MS. BUNTING-SMITH: And the Chair votes aye. The findings?

MR. BLAND: FINDINGS:

In granting this application, the Zoning Board of Appeals has weighed the benefit to be derived by the applicant from the proposed variance against the impact that the variance would have on the

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neighborhood. We have found that:

1. Granting the variance will not result in a detriment to nearby properties and will not adversely impact the character or physical or environmental conditions in the neighborhood or district (provided the conditions are fully complied with) because the addition being requested will maintain the maintain the character and nature of the community, there was no complaints raised by a neighbor. Moreover, the addition to the existing dwelling in the middle of the of the property and does not disturb coverage to adjoining properties.

2. The goals of the applicant cannot be achieved by some other feasible means without requiring the variances we're are granting now because the existing structure is already there non -- conforming, and therefore, any addition to the property would require a variance.

3. The requested variance is not substantial in relation to the requirement sought to be varied; in that the requested relief 16.89 feet compared with 18 (required) a 6.16 percent decrease.

Lastly, the applicant's need for a variance was self-created because they purchased the property with the knowledge of the Zoning Ordinance; however, the fact that an applicant's need for an area variance was self-created is not, by itself, require us to deny an area variance.

MS. BUNTING-SMITH: Thank you.

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5/16/2019 - Case No. 19-10 & 19-11 & 19-12

MS. BUNTING-SMITH: The next case on tonight's agenda is Case No. 19-10, Maria Regina High School, adjourned for all purposes to June 20th.

And the next case is Case No. 19-11, North American Terminals Management, LLC, also adjourned to the meeting of June 20th.

And the last case on tonight's agenda is Case No. 19-12, Fred Astaire Dance School, which is closed for decision only. And with that we are adjourned. Happy spring everyone.

(Whereupon, at 10:50 p.m. the case was adjourned to June 20, 2019 at 8:00 P.M.)

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

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IS TO CERTIFY THAT THE ABOVE TRANSCRIPT IS A
TRUE AND ACCURATE TRANSCRIPTION OF MY
STENOGRAPHIC NOTES.

Debra L. Rinaldi
Senior Court Reporter