

STATE OF NEW YORK
TOWN OF GREENBURGH

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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.

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November 21, 2019
8:00 P.M.

Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York

BOARD MEMBERS:

Eve Bunting Smith, (Acting Chairwoman)
Rohan Harrison (NOT PRESENT)
Louis Crichlow
William Losapio
Daniel Martin (NOT PRESENT)
Kristi Knecht
William Bland
Barbara Brennan

STAFF MEMBERS:

Carole Walker, Secretary
Anthony Zacarolli,
Deputy Town Building Inspector

Nadine Kristoferson,
Official Court Reporter

11/21/2019

(Whereupon, at 8:05 p.m. the meeting of the Town of Greenburgh Zoning Board of Appeals was called to order.)

MS. BUNTING SMITH: Good evening, everyone.

The meeting for the Zoning Board of Appeals for the Town of Greenburgh will now come to order.

We have seven cases that were scheduled for tonight's agenda. However, Cases 19-21 and 19-28 have both requested an as-of-right adjournments. So if there's anyone here who were planning on speaking upon either of those cases, I just wanted you to be aware that we will not be hearing them tonight.

Please note that the Zoning Board will have our next regular meeting on Thursday, December 12th. As usual, if we cannot complete hearing any case tonight, we will adjourn it to another meeting, hopefully, to be completed at that time.

Also, as is usual, we waive each case as far as the reading of the property location and relief sought. However, the reporter will insert that information in the record. It also appears in the agenda for tonight's meeting.

After the public hearing of tonight's cases, the board meets in the conference room directly behind us to discuss and deliberate with respect to the cases. Everyone who is present who wishes to listen to our deliberations is welcome to do so. However, you cannot participate or speak at that time.

After our deliberations, we come back into this room to announce the board's decision for the formal record and to broadcast it to the community.

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

All right. We've heard testimony -- well, I haven't heard any testimony in any of these cases tonight, so I'll rephrase that.

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11/21/2019 - Case No. 19-29

ZBA Case No. 19-29 - Jose Bejar, for property located at 8 Lark Avenue (P.O. White Plains, NY).). Applicant is applying for area variances from Section 285-40(C)(5) of the Zoning Ordinance to increase the maximum height of an arch wall in the south side yard from 6 ft. (permitted) to 11 ft. (proposed) and to increase the maximum height of an arch wall in the north side yard from 6 ft. (permitted) to 10.083 ft. (proposed) in order to legalize a combination of wall and fence. The property is located in an R-20 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 7.520-319-33.

MS. BUNTING SMITH: Tonight's first case to be heard is Case 19-29, Jose Bejar, property located at 8 Lark Avenue, White Plains, New York.

MR. BEJAR: My name is Jose Bejar, 8 Lark. I am the owner. So I just come only to say a few words.

The house is multi-decorate. It was the house --

MS. BUNTING SMITH: One second, please.

Can you hear him in the back?

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: Can't understand him.

MS. BUNTING SMITH: Okay. See in the microphone is on. Tap it, tap the top.

There we go. Start again.

MR. BEJAR: Okay. My name is Jose Bejar. I am the owner of 8 Lark. The house, like I bought for my mother, like is the wheelchair 95 years-old, with multiple medical conditions.

Unfortunately, the house was in a fire 2004. Thereafter -- No, we bought the house 2004. Then the house is having a fire in 2012. Then after 2012 until now it was construction and renovation until now. The house is now completely finished. We decorate as much we can with the style, a Peruvian style, whatever we belong. But we are citizens now of this country. The house is for my mother in the wheelchair, 95 years old. Like, I am the son, and I give the best to my mother, like I do

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all the time, like whatever you do for your parents.

Next to me is my lawyer in the case.

Thank you.

MS. ADDONA: Good evening.

MS. BUNTING SMITH: Good evening.

MS. ADDONA: I'm Christie Addona, from Silverberg, Zalantis, on behalf of Mr. Bejar.

So here we're tonight, we're speaking two area variances for two stone arches that are on the north and south side of the house on the property. These arches were installed in approximately 2017 when the applicant did substantial renovation to the property after obtaining previous approvals from this board for the renovations.

The issue of the height of the arches came up earlier this year after the applicant had installed a metal fence over the stone wall on the south side of the property. Because the fence was on top of the wall, it exceeded the height. So when the building inspector issued a denial letter for the side wall, they also included the stone arches as exceeding the height of the walls as being -- that are permitted in the side yard setbacks, which is 6 feet. And the stone arches are more than 6 feet. So for the purposes of this analysis, they were treated as walls.

In response to the denial letter, the applicant did remove the fence that was on top of the stone wall on the south side in order to render it zoning compliant again and also spent the summer working with the building inspector and the building's permit to resolve some additional items that had come up with respect to the property.

After remedying all of these issues, the building inspector did issue a revised denial letter dated August 27th. And so now we are here seeking -- requesting that the board consider granting the two area variances for the height of the stone arches to allow them to remain in their current condition.

MS. BUNTING SMITH: Were these arches on the plans that were submitted to the town?

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MS. ADDONA: They were not. The applicant considered them to be architectural features and did not realize that they would require separate approvals. As you know, the board has -- the applicant did come before the board in 2017 for certain variances and certainly would have included that, had it been realized. And then, because it didn't come up after they were constructed, we didn't realize it was an issue until the issue of the other walls came up, and so now we're here trying to rectify that.

I had submitted a letter with our application dated October 3rd that went through the analysis of the area hearings criteria. I would be happy to briefly recap that now for the board, if you would like.

MS. BUNTING SMITH: That's up to you. I mean, obviously, we're familiar with the requirements.

MS. ADDONA: Okay.

MS. BUNTING SMITH: We'll leave that up to you.

MS. ADDONA: Okay. I'll just briefly, for the board's recollection and for anyone in the audience:

So the first criteria is that there will not be and undesirable change produced in the character of the neighborhood or a detriment to nearby properties from granting the variances.

So, as I stated, the stone arches have been in this location for well over a year. As far as we are aware, no one has had any complaints or concerns about the arches. They're extremely high quality craftsmanship, and they were constructed in a natural stone and hand-cut into an old world style. They also complement the existing stone walls, the zoning-complaint stone walls, that are on the north and south sides of the property as well as the stone that's built into the façade of the house itself.

Lastly, as part of our application, we did provide a Google Map Image from 2007 that shows that before the house was damaged in the fire and reconstructed, there were arches that were in those locations. Obviously, they were not of the same caliber or quality that they are now, but there was an arch in that location.

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So the second criteria is whether the benefit to the applicant can be achieved by some other feasible method other than the area variance. So because the function of these arches is to frame the house and serve as a conduit between the walls and the house itself, really the only practical place for them to be is where they currently are, which is in the side yard. Otherwise, no one would be able to see them, and that's really their utility and benefit is being able to see them when you're looking at the front of the house.

In addition, it really wouldn't be practical to make them zoning-compliant because they're of such thick stone that they're approximately 2 feet thick. At their height, if you were to reduce that to be 6 feet total, you would only have a clearance of about 4 feet to go underneath them, which really wouldn't be practical for safety purposes.

To the extent of whether or not they're substantial, we submit that variances of 4 and 5 feet respectively are not substantial, especially in light of the fact that they're considerably smaller than the house that they're both next to, and when you're looking at them from either side, the house will be the dominant structure because it's both taller and wider.

We do not believe that there will be any adverse effect or impact on the physical or environmental conditions of the neighborhood. As I already explained, these walls, these stone arches have existed for more than a year and they provide an esthetic and architectural feature that is a benefit to the community.

Also, this is not your typical wall. Like you can see, in contrast to the walls in the picture that's shown on the screen along the perimeter, if that wall were over 6 feet in height, you would have that -- it were enclosing the property, you would have a concern that it would seem like you were being imprisoned, like you were staring at a stone wall. That's not the case with these arches. Even though they're treated as walls, they're open and they provide a level of openness and looking at them sideways, they're not wide. So they really don't have the same concerns that you would normally have with a wall being over 6 feet in height in this situation.

And, lastly, whether or not the hardship is self-created: To the extent the board finds that it is

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self-created because we are here seeking variances for this, the applicant did not realize that it would require variances. He had made applications in the past to this board for variances. It obviously would have been better if that were all packaged together when we were last before this board in 2017. When we realized it was an issue, we came back to this board to try to rectify it.

The applicant has also been working with the building department to resolve all other items with respect to the property. It's been a long process and one that was frustrating for the applicant and we understand it was also frustrating for the town and for the neighbors. But at this point, a Temporary Certificate of Occupancy has been issued effective October 31st. Everything is done. And at this point, we would just -- we're just seeking relief from this board so that the applicant doesn't have to go back and do more construction by cutting down these arches that were handcrafted and prolong the process that has been too long as it is for reasons that were, unfortunately, to a certain extent, outside of my client's control because he had issues with the insurance company and contractors after the fire.

I believe this to be a unique situation. It's a situation where it's not your traditional wall. And so I hope that the board would look at that and realize that while being treated as a wall for zoning purposes it is unique and it's not something that comes up very often, and in this situation it doesn't have the adverse impacts that a wall of that same size would have.

And so, I'm happy to answer any other questions.

Otherwise, I don't know if you want to say a few words.

This is Laura Stebelle. She is the designer.

MS. STEBELLE: Yes, and I guess, my expert --

My name is Laura Stebelle. I'm a landscape designer. I'm a landscape designer. I've had gardens, four now, featured on the Garden Conservancy Tour, and I've been featured personally in magazines now and as last year and I've had my work featured in national magazines.

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So I had met Jose and --

MS. BUNTING SMITH: Just back up a little.

MS. STEBELLE: I came out to help him out of this issue. After seeing the arches, you know, I felt it was basically a crime to have these removed, I'm sorry to say. I read through some of your law, your ordinances, and I'm a little bit confused about how these are even seen as a fence due to the fact that they are -- if a fence or a structure was complying that a person wouldn't be able to walk under that. So I don't know if these were something that had been really thought of in your original writing of your regulations.

So, I also had, in my long career, started my business at 19, I had also sold fencing. And I've worked for a fencing company where we installed fencing and arches all the time, and I've never ran into a situation where I had to get a zoning variance to put in an arch. And the arches are always going to be over 6 feet tall. So that, I think, is part of the argument here that these probably weren't really anticipated under your regulations, nor do I think that probably other instances in your town have been given this kind of action or reaction.

So the architecture is also consistent with Spanish or Moorish design. I don't know -- I'm not from the area, but I am familiar with Untermyer Gardens. That's kind of the influence that came from Spain, from the Moors crossing over into Spain that became a Spanish influence design-wise that then made its way to South America, where Jose and his family came from, from Peru.

So I know Jose had spoken to me about his care for his mother, 95 years old, God bless her. She's really an incredible lady. And he was trying to make her feel at home by installing these arches. And when I am a designer, I do ask people, is there something from your childhood, is there something you want to see in your yard. And I think that's what prompted him to put these in. This is something unique to him and his family to make them people at home and to make his mother, more importantly, feel at home.

So, again, I think that they're incredibly beautiful. They've been well built.

I actually was probably one of the first women

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in the stone yards also as a stone mason. I've worked with Ecuadorians and Peruvians training them sometimes to do stone masonry. And they're incredibly well-constructed.

I also want to add that if you did try to bring them down in any way, it would most likely remove the arch and put a straight piece across. If there's any engineers here, you know, the arch is stronger. That weight on the arch, you'd actually have to compress the inner wall of it to make it fall down. Where if you put a straight run, it is a little bit less of a safe building technique. So these are built very well and in a safer technique that's made to handle the weight. You know, a lot of people know the aqueducts in Rome would be a good example of the arch construction.

So, I don't know. Is there any other questions?

MS. BUNTING SMITH: Well, we might have questions. Let's find out first, who in the audience wishes to address this case.

MS. STEBELLE: Okay. Great. Thank you very much.

MS. BUNTING SMITH: Come on up.

MS. LIVSON: Good evening.

My Dorrine Livson. My address is 83 Windom Street. I'm a neighbor that lives around the corner. I'm also president of the Civic Association, the Worthington Windom Civic Association.

First, I'd like to point out to you that that it's incorrectly noticed in that this property is under R-10, not R-20. All the properties on Lark Avenue, Piper Court, Jay Court were all changed because none of them have 20,000 square feet. It ranges from 18,000 all the way down to 11. They were all changed from R-20 to R-10. I don't know if that has any bearing on the case, but I just want to let you know that that's -- for the record, all these properties are now in R-10.

MS. BUNTING SMITH: So let me just to interrupt you: With respect to the particular property that we're considering tonight, you're saying that it definitely is an R-10?

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MS. LIVSON: Absolutely. I have --

MS. BUNTING SMITH: Okay. All right.

MS. LIVSON: And you can look at the -- I also have the new zoning map that shows if the town has been not up-to-date on the property card, when you go in to the GIS, but this came out as Appendix E, all the residents on Lark, Piper, and Jay were all sent letters by Garrett Duquesne informing them of this change. And so they were noticed about this particular change.

MR. CRICHLLOW: I'm sorry. That occurred when? When was it noticed?

MS. LIVSON: Right after Appendix E.

UNIDENTIFIED SPEAKER: 2017.

MS. LIVSON: 2017.

MR. CRICHLLOW: So just recently? A year and a half to two years?

MS. LIVSON: Well, it was discussed with the Comp Plan in 2016 when the Comp Plan was put out and there were a lot of appendixes, and Appendix E is the one that dealt with all the changes in the town. And the people, the residents were then informed about this.

I'd like to speak a little bit about the history of this property. This property owner has not been a good neighbor. When he was building the house, unfortunately, there was a fire and he had to rebuild. In building the stone walls, he was allowing his workers to go on the neighbor's property. There's debris left on both sides. Her bushes were destroyed. They were never replaced.

On the other side, which would be 10 Lark, the gentleman is here, Arthur Marlowe, and his fence was knocked down and he had to put up a new fence. There was never an overture for Mr. Bejar to replace that fence. This was all being done.

The same thing, when they were doing that fence with the wrought iron, the workmen were on the Burackes' (ph) property, and they were welding, standing on her property. They were also supposed to fix, he had put drainage holes through the walls, piping, I should

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say, from his property and that was draining on to her property. He was told to fix it. She's not here. So I really don't know if it was taken care of.

But these are some of the things and the rest of the residents will tell you about it.

I have a letter from Susan and Stephen Marynowski. They live 4 Piper Court. They about the house in the back:

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MS. BUNTING SMITH: Slow down, please, so the stenographer can get it.

MS. LIVSON: Excuse me.

MS. BUNTING SMITH: I said just slow down a bit so she can take it down.

MS. LIVSON: I'm sorry.

MS. BUNTING SMITH: You might want to spell the person's name.

MS. LIVSON: Okay. You can see. And I'll hand this in.

Zoning Board of Appeals:

Please let it be known if that if we were not on vacation in California, we would be present at this public hearing on November 21st regarding the property located at 8 Lark Avenue.

We are against the variances to increase the maximum height of the ridiculous arches on this property that has been under renovation for seven to eight years, which is also ridiculous.

We encourage the Zoning Boards of Appeals to deny any additional variances. Additional items that we were against are the 11 lanterns on the front of the property along with the spotlight over the pool which shines into our bedroom. This two-story cabana which looks like a small apartment, and the entire time, we had to look at dumpsters and portable toilets nonstop on the front lawn for seven and a half years, but, thankfully,

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they are finally gone.

If you need any further information or have questions for us, we can be reached at the (917)887-3209 and would welcome your call.

Thank you.

Susan Marynowski and her husband, Stephen Marynowski.

I'd like now to turn it over to some of the residents that would like to speak.

MS. BUNTING SMITH: Do you want to leave that letter with --

MS. LIVSON: Yes.

MS. WALKER: Thank you.

MR. MANCINI: My name is Rudy Mancini. I live at 12 Lark Avenue, White Plains, Greenburgh.

Just a couple of questions: When I built my pool, 40 years ago, 30 years ago, I don't know, I had to stay 12 feet away from the curb. Okay? This gentleman has a retaining wall that goes down on both sides of the house, and he's about 5 feet away from the curb. So did he get a variance to encroach upon the town's property? Because 12 feet is the town's property.

MS. BUNTING SMITH: Have you brought that to the attention of the Building Department?

MR. MANCINI: I have but I talked to a gentleman, Anthony Facara(ph) or something like that.

MS. WALKER: Zacarolli.

MR. MANCINI: He said it's with the Public Works now.

MS. BUNTING SMITH: Okay.

MR. MANCINI: So I haven't been able to get to Public Works.

MS. BUNTING SMITH: Well, unfortunately, we can't answer that question for you. So that's why --

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MR. MANCINI: Well, who is going to answer the question?

MS. BUNTING SMITH: We're only the zoning board. We don't know...

MR. MANCINI: Well, then he's in violation of the zoning.

MS. BUNTING SMITH: No. We wouldn't know exactly where the property line is.

MR. MANCINI: Well, why don't you people go and find out?

MS. BUNTING SMITH: Pardon me.

MR. MANCINI: Why don't you find out?

MS. BUNTING SMITH: I'm trying to give you a direction as to who to see.

MR. MANCINI: Wait a minute. It's not my job to find out. I think it's your job.

MS. BUNTING SMITH: You raised the issue.

MR. MANCINI: If you're going to give him a variance, it's than it's your job.

MS. BUNTING SMITH: Sir, we're not giving a variance on this issue as far as I'm aware. If it were something that we were considering as a variance, you would be correct, but that has not been brought to our attention.

MR. MANCINI: It has not been brought to your attention?

MS. BUNTING SMITH: No. You look at out agenda, you'll see what's before us this evening.

MR. MANCINI: In other words, you're only considering the two arches there?

MS. BUNTING SMITH: No. We're considering the variance with respect to part of this wall and whether or not it complies with --

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MR. MANCINI: Well, that's part of the wall.

MS. KNECHT: We're considering the height of the arches.

MR. MANCINI: Then you're only considering the arches today?

MS. BUNTING SMITH: Correct.

MR. CRICHLOW: That is correct.

MR. MANCINI: Okay. All right. Thank you.

MS. BUNTING SMITH: Anyone else?

MR. MANCINI: Okay. Never mind.

MS. BUNTING SMITH: There's more people.

MS. ADDONA: I'll address it later.

MS. BUNTING SMITH: You can address.

MR. MARLOWE: Good evening.

MS. BUNTING SMITH: Good evening.

MR. MARLOWE: I'm Art Marlowe, at 6 Lark. I'm a neighbor on one side.

MS. BUNTING SMITH: Spell your name, please.

MR. MARLOWE: I've been living next to this mess for seven or eight years.

MS. BUNTING SMITH: Sir, spell your name, please.

MR. MARLOWE: M-A-R-L-O-W-E.

I'm just looking at pictures of this. If this has any architectural merit, that's in the eye of the beholder. All I see is heavy stone, rock wall plus arches. What they have to do with a simple frame house, I don't know.

So if we need a variance for it, I'm opposed. It's a mess. And I've been living next to it. They never clean up anything when they put up the wall or do

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anything else. I get the garbage on my side. My whole fence is gone. There are bits and pieces of it. I don't see the merit of any more violations being allowed.

We've all adhered to the law living on that street. I've been there over 40 years. I've had to remove patios when I extended a house. You said I was covering too much land. I simply ripped up the patio. It was slate on sand, took away.

I don't know why this property gets away with doing what it wants and then coming for a variance. That's not right.

And we're living next to it. And as far as being old, I'm 87, never mind 85, and putting up with this nonsense.

They're still taking garbage away from my side of that wall. I've had people working there this week on some terracing in the garden. And they come up with white plastic, a big archway, about 4 feet across. It's not mine. It's still there. Bits and pieces of my old pipe fence are on the ground. I have old pictures where they dropped rock for that wall right through my fence and onto my property. Nobody cares. There's nobody supervising this job at any time.

And certainly nobody with a legal right to build is in charge or they wouldn't put this up first and come for variance later. We don't do that. We come here first or a legal, licensed contractor tells us they can't do what we want. That's the way we operate around here and that's the way we should operate.

This is crazy that he -- this is going on for years. What does it end?

Thank you.

MS. BUNTING SMITH: Is there anyone else?

MR. VARKEY: George Varkey, 7 Lark Avenue.

MS. BUNTING SMITH: Spell it, please.

MR. VARKEY: V-A-R-K-E-Y.

I would like to know why this variance is requested now after all this has been done because he

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has, in the past, systemically gotten variances after the projects have been done. So this is like an ongoing thing with him. He builds something. He gets a variance. Then he builds another thing, gets a variance.

Now he has glass sliding doors on the back of the house, which doesn't have a landing. So I'm assuming that eventually he's going to put a deck or he has to seal it off. So is he going to get another variance at that point?

He doesn't know what he is doing. He just does it as a fly-by thing. He does something, then rips it apart, then does another thing, then rips it apart. Then he asks for a variance.

So last time he came -- when we were present, he said he wanted to put a sun room, which turned out to be and integral part of the house now, which is not what he had told us at that point.

So I don't want this to be approved because tomorrow he's going to come up with another argument saying that he needs another variance for this or that or something else. It's eight years under construction.

I live across from that. I had to change the car because of the dust got into the thing rusted my car. I mean, how much of an inconvenience do we have to suffer? When is he going to complete this thing? He's talking about his 95-year-old mother. If I were taking care of a mother who is 95 years old, I would get her into the house as soon as possible because I don't know how long she is going to live after this. So I don't know what he's planning or what his gain is.

So I hate to admit this: I don't like the idea of giving approval for the zoning change or for the variance.

Thank you.

MS. BUNTING SMITH: Okay. Was there anyone else?

MR. AURIKOUSE: My name is Eldtho Aurikouse, 5 Lark Avenue.

First of all, I'm very sorry to see that a 95-year-old Mom is still waiting for her home to be

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finished.

My question is: What has to be -- this owner is going to face if you don't finish this wall? This is a tremendous increase from 6 feet to 11 feet high. Why it's so important for that increase? Why the Zoning Board has certain restriction like 6 feet high? Why it's going up to 11 feet? Why should the zoning board approve it?

The board already heard from the neighbors, the complaints. Why it is not being addressed? Like my previous speaker said, every time he builds something, then comes for the variance. It shouldn't be like that. The county can do a better job.

And I totally feel a wall like this is going to change the spirit of our neighborhood. Our neighborhood is an open area with the grass and everything, neatly manicured property. We don't appreciate a wall like this.

And we don't know why -- once the wall is built, he's going to put some barrier. We have no visibility. We don't know what is going to happen inside behind the wall.

All the characteristics of some other business. We don't know. We don't know how many rooms are there. The facilities are big. It is not just a one-family house.

That's why I'm against it. I'm totally against giving this approval.

Thank you.

MS. BUNTING SMITH: You say it's not just a one-family house?

MR. AURIKOUSE: To me, it looks like it's not a one-family house. I don't know. That's what my guess is.

MS. BUNTING SMITH: Based on what?

MR. AURIKOUSE: Based on my -- inside, you know, behind the house, there's a pool, big pool, cabana.

I never been inside the house, but this is what

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I see.

Did anybody check how many rooms in this building, how many bathrooms?

And the industrial-size heating system, you don't need that for a small house. One-family house doesn't need an industrial size HVAC unit.

The gas line, it's so big, the gas line. You don't need that much big gas line.

And he put one tank a couple of months ago in the front yard. He was probably planning to concrete the yard. Then the town stopped it. Then HE came up with a sewer. Grass, they put the grass. And they put the decoy sprinkler system. They pulled out.

Why do we have to do all these things?

So let him complete the house with the building code and everything and let his mom come to his home.

MS. BUNTING SMITH: Anything else?

MR. AURIKOUSE: That's all. Thank you very much.

MS. BUNTING SMITH: You're welcome.

Is there anyone these?

MR. VARKEY: Can I come back?

MS. BUNTING SMITH: Quickly.

MS. WALKER: State your name again.

MR. VARKEY: George Varkey, 7 Lark Avenue.

Building on to that, we suspect that the interior of the house is not going to be a single-family house because we were told that there is like seven or eight bathrooms in the house. The cabana has an air-conditioner in it. Generally, cabanas are built to go and change to go into the pool and come out. You don't live there. So why would you have an air-conditioned cabana? If you have industrial type of air-conditioners on the thing, which has got two large air-conditioner units. I just changed, replaced mine,

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which is a two and a half ton air-conditioner. He has two 15-ton air-conditioners.

It doesn't make sense to have this whole thing and to think that it is going to be a single-family house.

The lights and the cameras that are sitting on his property, they invade into the privacy of all the neighbors including myself across the street, the side neighbors. So that's another thing that needs to be looked at before variances can be given.

He has constructed a perimeter wall. Has this ever been done on this property before he built the thing? Is that in agreement with the property lines or is it encroaching into somebody else's property?

I don't know. So there's a whole bunch of different things.

He has a second kitchen in the basement now. Why do you need two kitchens in the house?

MS. BUNTING SMITH: How do you know that?

MR. VARKEY: Well, that's what, the staircase and all that stuff, we were told that was.

MS. BUNTING SMITH: Who? Who told you?

MR. VARKEY: The workers.

MS. BUNTING SMITH: The workers?

MR. VARKEY: Yeah.

So we don't really know what is happening. So the town needs to look at all that before you can even consider giving variance because this has been an ongoing thing. Every time he does something, he comes and asks for a variance. Then he goes and changes that and then gets another variance. So what is the present condition of property? Nobody knows.

MS. BUNTING SMITH: All right.

MR. VARKEY: Thank you.

MS. BUNTING SMITH: Anyone else?

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MR. MARLOWE: Yes.

MS. BUNTING SMITH: Let the building department answer, please.

MR. ZACAROLLI: Anthony Zacarolli, Deputy Building Inspector, Town of Greenburgh.

I would just like to address the comment about the second kitchen in the house. Our inspectors have been in the house, and there is no second kitchen in the basement of that house right now.

MS. BUNTING SMITH: Thank you.

Is there anyone else?

MR. MARLOWE: I must point out --

MS. BUNTING SMITH: Wait until you get to the mic, please.

MR. MARLOWE: Marlowe, 6 Lark.

I want to point out that I had to come to the building department to get the brackets for part of this wall, or the top part of it near the pool, removed from my property. There were metal brackets holding that, coming out about 8 -- about closer to 12 inches into my side holding that up. There's a hole through the wall right now. I came to the building department to get an electric wire, not heavy BX, an electric wire coming through.

Also, water dripping down with the electric wire hanging on my side of the wall, presumably to handle these strobe lights on the poles. I don't know. They're gone now, but I had to come to the building department to get people to go look at it to get it removed.

It's crazy. It's not up to us to supervise this property and see what's legal and what isn't, or try to protect ourselves. The building department hasn't got that kind of manpower. So we're back and forth. It's wrong.

MS. BUNTING SMITH: Well, sir, and others, we all know the expression, "see something, say something". It is certainly impossible for the Building Inspector to

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know what's happening in every house in this town. We all know that.

MR. MARLOWE: I agree.

MS. BUNTING SMITH: So if neighbors see something that they feel is not in compliance --

MR. MARLOWE: My point is this is how that property is handled and we can't stop it.

MS. BUNTING SMITH: Sir, we can't hear you. You're not on the record. I'm sorry.

I said you're not on the record talking back there.

UNIDENTIFIED VOICE: You have to go back to the podium.

MR. MARLOWE: My hearing is not good. I only wear hearing aids, but they look better than they work. It's not on exact science.

MS. BUNTING SMITH: Looks are important.

MR. MARLOWE: Marlowe, 6 Lark.

There's so much that goes on here in eight years that is detrimental to the neighborhood or the neighbors, in general. And I accept the fact that nobody can keep track of this, but so much is done, it appears to me, without licensed contractors who would never do it in the first place.

And when you see it happening, you cannot talk to anybody on the property because there is no foreman in charge. You can't complain about something. To whom? Have to come to the Building Department. Then we have to wait and see what happens, but that's followed by a variance.

It's a vicious cycle, but it isn't fair, not right.

MS. BUNTING SMITH: Thank you.

Is there anyone else in the audience?

MR. KARWOWSKI: Good evening, ladies and

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gentlemen.

Good evening. My name is Steve Karwowski. I reside at 3 Lark Avenue.

I just have a couple of questions, if I may, of certain things about -- as the other neighbors have expressed about how an individual builds one thing and does not get written approval by other neighbors or has even spoken to the neighbors of what has to be done, and then when he does do it, it's totally different than what the original plans were, and it's extended and it's already built. And then, yes, unfortunately, it's going up for a variance.

As you mentioned about the arches, whether they're architecturally or even structurally important is immaterial. The point is it was 2017 and the arches were up. This is 2019, and he's going for the variance. So, in realty, the way I understood how that works was either he shouldn't have built them until he got the variance or isn't it supposed to be taken down if he doesn't have a variance?

The same was the situation with the AstroTurf, which was bluestone put down, crushed into powder. Nobody knew about it. There were fake sprinkler heads put in the ground. I'm looking at this and it's being rolled and vapor barrier put down. Well, that's not grass. So I looked it up and found out it was AstroTurf.

Then we notified the building department. They came and they summonsed him and they explained to him that you can't do this in a residential area and what have you.

My point that I'm getting to is he is a licensed contractor. I don't know how that substitutes what he thinks he can do or doesn't know what he can or can't do.

I, myself, am not a licensed contractor, but I can bet you that I can do all these things that you see on that home and hire a crew and be a contractor. I was offered to be a contractor. I do not want to be a contractor.

My point is, on the structure of those arches, they're built out of wood and they are faced with some concrete. I don't recall seeing any rebar or any type of

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steel to support those structures. Now the stone is cut and it is glued on, as I call it, with a concrete, glued on to those structures, and that was done on some of the coldest days of the year back in 2017.

So integrity of the arches, questionable. If somebody wants to drill, put a hole in, put a camera in see how it's built, that's another issue. That may not be even pertinent or important to this.

But what is pertinent is that an individual that owns this home, that knows nothing about how contracting works, decided to become a contractor and build something and find out from the building department, that's not how it's done, take it down, do it again. The walls were built three times. They were moved back twice or three times because they were built on the curb the first time. Then they were moved back a foot, then they were moved back 5 feet, whatever that particular legislation is.

The other thing that I have in question is this gentleman has a curbing out of cobblestone Belgian block. The whole neighborhood has a curbing that belongs to the Town of Greenburgh that is concrete. This individual voiced that Mr. Finer gave him the permission to build that curbing as long as he was paying for it, which I don't believe is a true statement, No. 1; and No. 2, if he is allowed to do that, would I be allowed to build either out of brick, marble, or bluestone, a curbing in front of my house? Now, what if my neighbors decide he wants to do marble. He wants to do, I don't know, red stone, anything. So you're going to drive the down the street that's going to have ten different homes with ten different curbing. I assume, and I'm pretty sure that the Town of Greenburgh has stipulations and rules about the street and the curbing. That issue was ignored. I'm not saying by the town or the board, but it was ignored and, unfortunately, our neighbors, my neighbors didn't really know all these things.

But the point of the whole thing is, is for seven years he's been fined, tear it down, build it again, he's been fined, he's been this, he's been that, it's been everything. And, I mean, this has been going on like crazy. I know other contractors that have had less violations, maybe three and less type of violations, that have lost their license.

So my question is: The integrity of the

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individual. I don't care about the house. I don't even care about the arches. I don't even care if it's legal and he deserves a variance for those arches. My point is the integrity of why this house is that many square feet on that property, why he does what he does, gets summonsed, takes it apart, and then is still allowed to do it again, and all the other properties and homes do not fit that description.

And I know a human being is allowed and entitled to have the type of house they would like, but he has not shown any compassion. He has not spoken to any neighbors. And when he did speak to one neighbor, he lied and said he was going to sign the paper that she didn't sign, and said that all the other neighbors approve of everything he's done in seven years. That is not the case.

We did approve his deck and his sunroom. That proposal that was brought to our attention was a temporary glass structure like a greenhouse that could be removed on a wooden deck with piers. It is an integral part of the house. We have no idea when he was granted a variance to make it an integral part of the house and change the square feet of the house. I suspect the square footage of that house is probably 4,000, could be more. The property is R-10. They only go up to 18,000. I believe my property is one of the biggest properties in the area, and I believe mine is only 15,000 and change.

And my last question, and I'm sorry to take up all your time is this: If this gentleman is allowed to do what he did in seven years and allowed to keep what he has in seven years and allowed to keep his arches, would it be conceivable that myself or any of these other neighbors would be able to do what he did? Would every house be allowed to look like that, take up so much ground that there's almost no impervious ground?

That is a thing to consider as a Town of Greenburgh, a Planning Board, a Zoning Board, that what he is allowed to do and gets passed, then every other neighbor in that neighborhood can do exactly what he did and you can't tell them no. They could build a cabana that's 20 feet high, has air-conditioning, heating, a bar in it, whatever it has, not my business, but then instead of a little shed that's in my backyard, I should be able to build a shed as big as that cabana. I have more ground and area to displace that building.

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So with that, I will say thank you for letting me speak my piece.

Have wonderful evening.

MS. BUNTING SMITH: Let me ask you something.

MR. KARWOWSKI: Yes.

MS. BUNTING SMITH: If I heard you correctly, you said at one point, it wasn't really about the house, you didn't care about the house, but then just recently in your comments, you seem to talk about --

MR. KARWOWSKI: I don't care about the -- let me rephrase that, and let me elaborate on that.

I don't care about the style of the home, the style, square footage, what have you, the addition. I am the gentleman that, seven years ago, that when that house burned, I helped get him his permit to put his only, only extension over the garage that was approved. That was it. After that, this gentleman was not nice to me at all, not anything, was very rude, even called the police on me for something I never even did. He went to other neighbors and blamed other neighbors for dogs going on his property, all kinds of things. That's who you're dealing with here. You are not dealing with an upfront, honest individual that will tell you, I'm going to do this and stick to those plans. There's a big difference.

Again, I don't have a problem with the architectural, the design of the home, but I have a problem with X amount of land, the house is X amount of square feet. I've lived there -- well, I moved away, but my parents have lived there since 1960. And our house would have been or was one of the biggest houses in the area. And for many years, we did not expand. We were told we couldn't.

So that is why I have those questions and why I took your time and asked about this.

But, again, to reiterate: My problem is square footage, land, and what have you, not the design of the home.

So if you have any other questions, I'll remain.

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MS. KNECHT: I just --

MS. BRENNAN: I have a question, and I'm not sure it should be directed at you.

MR. KARWOWSKI: That's okay.

MS. BRENNAN: When was the last time anyone lived in the house?

MR. KARWOWSKI: Well, if they say it's 2012, I don't know if it's 2012 or 2011, but nobody has lived in that house since then.

And what you need to know is, one more thing I'm going to add, which I previously added three years ago, was he had a public adjustor try to do something when his house burned. They stole his money. It was put in escrow, 365,000, couldn't do anything with it. He came to me. As a good samaritan, a good neighbor, I took him to a lawyer, I took him through everything, I explained to him how everything went, and even the lawyer was robbing him. So he let that house sit for two years, at least two years burnt.

Then I got a real contractor for him to put his addition on in accordance with the variance, with the town, of how it would be done, and it was very affordable. It was a Connecticut contractor. It would have been done in six months. He decided, because every contractor, electrician, and plumber that he had walked off the job. His main concern at that time was inside the house, what do I do about furnishings, paneling. The insurance company walked off his property and said, I do not know what to do with this gentleman because he has the cart before the horse. We don't even have this house framed yet.

So there are many things which may not even be pertinent. This particular thing, but that I feel in all honesty you all should be aware of. Okay?

He said when he had the problem with doing the AstroTurf and everything else, he said, and I cannot vouch for the actual face-to-face thing, he said he apologized to all the neighbors, which he didn't, and he said he apologized to the inspectors and everything, and I want to do and comply to what the neighbors want.

And the last thing I will say is what the other

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gentleman was trying to explain is the upper level has a master bedroom with doors that open out. That's been like that for at least five years. If he does have any kind of insurance or contractor's insurance or anything, then why isn't it boarded up? It leads to nowhere. It does not matter if it locks on the inside. Why do I know this? But my house, I had that problem. My insurance company said, take a picture, board up those windows. Because if somebody, whether it be a worker or anybody, walks through that door and plunges, there's going to be some lawsuit. To this day, it is not blocked across.

There are many other issues subtly and grossly that have -- I'm not saying have not -- have been ignored by the owner, not the board, not the town, but by the owner because the individual does not know what contracting is, none of the facets of contracting.

Anyway, if you have any other questions, fine. If not, thank you for your time.

Sorry to keep you.

MS. KNECHT: I just wanted to say one thing also: In contemplating the arches, this is more of like a comment, if we deny the variance and he has to take them down, it's just going to be more --

MR. KARWOWSKI: Sure. This project is going to go on for -- listen --

MS. KNECHT: You're just to going to have -- I'm not leaning one way or the other right now, but you're going to have obviously then workers on the property doing what they have to do to demolish that, and just from what you've made him sound like, there's going to be some other kind of something that's going to be put there.

MR. KARWOWSKI: This home will not be finished for a couple of years.

MS. KNECHT: So I don't know if... The devil you know is better than the devil you don't with that scenario there.

MR. KARWOWSKI: I understand.

MS. KNECHT: It seems like you all know.

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MR. KARWOWSKI: Yes, but also you have to know that they were given deadlines. Then he pleads, I need more time, I need more time. How much time do you need?

In your guidelines and in your -- so, you know, laws what have you, it says timely fashion. What constitutes a timely fashion? The home across on Palisades Avenue was taken down to the studs, had a dry well put in, a driveway, a whole new addition on it, three months. The other house down the way, six months. The other home, one month. The other house, two months.

What is a timely fashion? Running out of money, financial thing.

The word is out that he has all kinds of money. Look at what he's spending on doing this. If you divide that over seven years, it's not really that much money, if you understand what I'm getting at with this. Okay?

That's the key thing here. What constitutes a timely fashion? What constitutes when it's going to be finished? This was promised three years ago. It's going to be finished in October 2017 or '16, whatever. No.

So the frustration of all the neighbors, especially George who lives across the street from him, the mud that went into the street, he was supposed to have the wall that holds it up, that stuff was everywhere, and, and even with the attitude that he had disturbing to the neighbors, I still went over as a good samaritan with a shovel and shoveled the mud back and put the fence back up around the driveway. I'm sure the cameras will show that, that he has.

But, anyway, if there's any other questions...

MS. BUNTING SMITH: Is there anyone else in the audience?

Come up, Ella.

MR. KARWOWSKI: Thank you for your time.

MS. PREISER: Hello. Ella Preiser.

I am the secretary to the Council of Greenburgh Civic Associations, and I just want you to know we have discussed this multiple times over many months, and the council members feel that you should deny the variance,

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even though it's going to take time to take it down and what have you, this has gone on much too long, and you should not reward this kind of behavior.

But I have a question: Mr. Mancini asked about the distance from the curb of the wall, and Anthony is here, I'm hoping Anthony can answer that question because you really should not grant any variance if there's an outstanding question about some provision of the law. So I would ask you to look in that right now.

Thank you.

MR. ZACAROLLI: Good evening.

So the issue of the wall that was extending into the right of way was addressed by Department of Public Works with a violation notice, and it's my understanding that the wall was made to be cut back to conformance. So the wall is not -- the wall is in the right of way and it's not on the building lot itself. The Building Department covers the building lot itself and those are the variances that are before you for the actual lot, not the right of way.

MS. PREISER: But may I ask that you check with DPW then to find out if this has been cut back or whether it is in the right of way? All lots should be in compliance with our codes, all of our codes.

Thank you.

MS. BUNTING SMITH: Yes, ma'am.

While she's coming up, is there anyone else that wishes to add anything?

MS. LIVSON: Dorrine Livson, 83 Windom Street.

A couple of weeks ago, we all knew that this was going to be on the agenda, and he was told that he had needed the variance to do this because his permit was denied. Knowing that his permit was denied, he then puts up all this lighting all over the arches. The question is, why?

MS. BUNTING SMITH: When was the lighting put up as far as you're aware?

MS. LIVSON: Recently. It was after the

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permits were denied. After this was scheduled, the lighting went up.

Thank you.

MR. MANCINI: One more question.

Rudy Mancini.

The gentleman was, at one time, running a day camp out of there. I wonder if he intends to run another day camp out of there again.

MS. BUNTING SMITH: Have you asked?

MR. MANCINI: I haven't asked him.

MR. LOSAPIO: It's not legal. So he can't. He'll get code violations for it. You can rest assure of that.

MR. MANCINI: All right. That's what I want to know because --

MR. LOSAPIO: There's no commercial --

MR. MANCINI: I know he's building the home for him and his mother.

MR. LOSAPIO: There's to be no commercial activity in that home.

MR. MANCINI: Okay. Thank you.

MR. LOSAPIO: He will be in violation.

MR. MANCINI: Okay. Thank you.

MS. BUNTING SMITH: So now let's here in the applicant.

MS. ADDONA: Thank you very much.

So I hear the frustrations from the people in the audience, and I understand them.

I just want to make clear, because there is a lot of speculation that was just stated, and a lot of it is just that. This is a single-family home. It was approved as a single-family home. This board considered

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a variance application two years ago to make that home look the way it does. And when a recent denial letter was issued, the only outstanding issue as of August 27th with respect to the Building Department is those arches. Everything else, based upon the Building Department's review, is consistent with what has been approved. So that is why we are here.

He's done. He has a Temporary Certificate of Occupancy. And the only condition on that Temporary Certificate of Occupancy is resolving issue of the arches. So a lot of the concerns are, while founded based upon past events, it's done. There is nothing else to do. And if he wants to do anything else, he is going to need approvals to do it, and he -- this is not the situation that's being conveyed that he keeps doing things and then backing away. He got the variances the last time before he constructed the house.

With respect to the AstroTurf, my understanding is there was a dialogue with the Building Department. There was miscommunication. As soon as he found out it was an issue, my client had expended a lot of money to purchase the AstroTurf, the artificial grass, to have it cut, to have the workers come and install it. He ended all of it, and he went back to what it was. And that was a couple of months ago.

He is trying to work within the confines of the Building Department, and some things have happened in the past that are unfortunate, but we're trying to rectify it as best we can, and that is why we're here regarding the arches.

When the TCO was issued, the Building Department looked in the inside of house, and so any speculation about what's on the inside of the house and whether it's appropriate for a single-family home would have been addressed then.

With respect to the zoning, given the variance that we're here for right now, the fact that it was misstated as being in the R-20 instead of the R-10 isn't really material because the requirement for the height of a wall is the same in any, I believe, residential district, but it doesn't change based upon what district it's in. However, I will just note that that was what was on the denial letter. So I just don't want that to be suggested as being a misrepresentation that was made by my client.

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With respect to the walls coming too close to the street, they were moved back. There was a violation issued and they were moved back to the satisfaction of DPW and that was resolved.

And I just want to -- I know you've heard a lot, and I apologize that you had to sit through all of that, but really we are really just here for that one narrow issue of do these arches satisfy the criteria for an area variance, and we submitted our letter, and I've spoken to you about it before, and I won't go through it again. But we believe that based upon the situation, it does satisfy the criteria for an area variance and the objections that are unrelated to that really are outside of the purview.

So we would just ask that you focus on what the issue is at hand, which you're more than welcome to do, obviously, and make your decision on the merits of the application.

Thank you.

MR. LOSAPIO: Let me just make a comment that the neighbors, what their frustrations are, and I'm sure you heard it, and that's what we're here for, to listen other to the neighbors --

MS. ADDONA: Sure.

MR. LOSAPIO: -- and the continuity and integrity of the neighborhood.

MS. ADDONA: Sure.

MR. LOSAPIO: The feeling is that he does something and he reneges or takes it back.

So there's a lot of frustration and I wouldn't treat it so lightly as, you know, I'm sorry you had to listen. That's what we're here for.

MS. ADDONA: I apologize that it came across that way. I don't mean it as, I'm sorry that you had to listen to it, I'm sorry that this is the situation where they are having those feelings that they are expressing. If that was how I conveyed it, and I apologize.

MR. LOSAPIO: It was all self-created.

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MS. ADDONA: Understood.

MR. LOSAPIO: One thing after the other after the other. So there's a tremendous amount of frustration.

MS. ADDONA: And I understand that.

MR. LOSAPIO: So you just can't treat it lightly. That's not way the board takes.

MS. ADDONA: I apologize, and I did not intend to take it sound that way. I meant it more in the context of what I just said, that I apologize that this situation exists that there are people that are that frustrated.

MR. LOSAPIO: He should have had an architect that told him, you know, these are the rules and regulations, you know, this is the way that you have to do things, and it seems that's not the MO.

MR. BLAND: And I appreciate what was just stated, and literally, you should know as well as an attorney, that we have our test factors that we have to look at, and just two words that I'll use out of our doctrine, and that is adverse, and whether it's de minimus in terms of what it does to the neighborhood. So our sitting here as an appellate board is to give everyone an opportunity to be able to express what they see as quality of life, and they have that right to express that, as well as an applicant has the ability to come in and impress to us that for their own personal reason, and I'm happy that the neighbor did say that he's not concerned with the architectural merit of the house, but, again, it does gives us ability to make a balancing act as we're looking at these tests that we have to uphold.

So, yes, we will listen because it is a community and, you know, we are concerned that everyone is happy where they live here in Greenburgh.

MS. ADDONA: Understood, and I'm not suggesting you shouldn't.

MS. BUNTING SMITH: And we apologize that we're only the zoning board.

MR. BLAND: Correct.

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MS. BUNTING SMITH: Because some of the complaints that you've raised going back seven or eight years. We can't resolve those. We can't even address them because obviously it was something that came about and went on. There are other avenues that are there for people to follow when there are things that occur that need to be addressed in other ways. So we apologize. We have limited powers.

Thank you.

MR. LOSAPIO: Thank you.

MS. ADDONA: Thank you.

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ZBA Case No. 19-30 - Kim & Darryl Abrams, for property located at 31 Mt. Joy Avenue, (PO Scarsdale, NY). Applicant is applying for an area variance from Section 285-16(B)(4)(d) of the Zoning Ordinance to reduce the rear yard setback from 26 ft. (required) to 17 ft. (proposed), in order to construct a sun room. The property is located in an R-5 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 8.460-329-6.

MS. BUNTING SMITH: Moving on to the next case on tonight's agenda, Case 19-30, Kim and Darryl Abrams. This is 31 Mount Joy Avenue.

MR. BAK: Good evening. My name is Bob Bak. I'll keep it short, B-O-B B-A-K. I represent Darryl and Kim Abrams, I'm a builder, Blue Horizons Construction. We're a licensed contractor in Westchester County.

What they want to do basically is build a 12 by 12 enclosed porch, single-pane glass, AZEK surface, with screens so that their kids can play outside.

If you take a look at some of the pictures we've provided, you'll see that -- well, there's tons of toys. They spend a lot of time outside. So they want to be able to enjoy the area.

We do violate one of the zoning setbacks where we're too close to the property line in the rear, and that's the reason why we're coming here.

And do you have any questions?

MS. BUNTING SMITH: So the sunroom is, the addition, I should say, is like a three-season?

MR. BAK: It's three-season, non-heated, single-pane glasses, screens all the way around, and a sliding screen door so they can access outside for the barbecue.

I have a picture that is similar to it. It's going to have roofing to match the house. It's white, it's glass, aluminum.

MS. BUNTING SMITH: Can you have our secretary put that up on the screen, please?

MR. BAK: That's similar. That's 8 by 12.

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Theirs will be 12 by 12.

MS. BUNTING SMITH: And I see steps on this. Are you putting steps on it?

MR. BAK: Theirs is so close to the ground, there's really, I believe it's just one step going down. There won't be any rails on the outside, no porch on the outside.

They have an existing flagstone on sand now. We are actually going to reduce the size of the patio, so there will be less impervious area. And they just want to keep a little area to the one side, which they presently have there now, the patio, just for the barbecue and access to the outside.

MS. BUNTING SMITH: So you're saying that the impervious surface that gets increased by the sunroom, will still be decreased by the fact that you're going to remove a portion of the patio?

MR. BAK: Correct.

MR. LOSAPIO: You have letters from the neighbors, I see.

MR. BAK: Yes.

We also, one of the neighbors showed up also.

MR. LOSAPIO: Wonderful.

MR. BAK: Darryl, do you want to say anything?

MR. BASHA: Good evening.

My name is Melvin Basha. I live across the street from Darryl and Kim on 31 Mount Joy.

We approve of what they're trying to do. They've discussed it with us, with all the neighbors around us. We very happily signed the letters that, you know, to get this done. We're in full support. So we don't see an issue with it.

MS. BUNTING SMITH: All right. Thank you.

MR. ABRAMS: Hi. I'm Darryl Abrams. I live at 31 Mount Joy.

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I thought it was weird I didn't come up and my neighbor did.

But basically, as Mr. Bak described, if anything, it's really going to look, I think, nicer than what we currently have in terms of this open patio area. The patio itself is kind of a mess. We would need to re-do it anyway. And, as I said, actually it's a smaller footprint.

So we went to all our neighboring properties. Everyone was in favor and signed letters, which we thought was very nice.

I think it will add, it will just be in the style of the house and look nice and keep the style of the neighborhood the same.

So we were just hoping for an area that we could really enjoy the outside space but we really don't enjoy it now. It's very buggy. It's very difficult to be outside. Our sons have a lot of allergies. So it would be nice to have kind of a more enclosed space that we can enjoy, but trying to, you know, keep it appropriate for the neighborhood and for our neighbors.

MR. LOSAPIO: That area there is about, what, 7 or 8 feet below your neighbor's property?

MR. ABRAMS: No. That's probably -- it's definitely below -- Yes. I mean, maybe like --

MR. LOSAPIO: You have nice trees growing there.

MR. ABRAMS: Yeah. It's already actually pretty well protected.

MR. LOSAPIO: Screened off?

MR. ABRAMS: We can't see their house. They can't see us, unless you're on the second floor.

That's on Mount Joy. That's the other side of the house.

From the back side, it's actually pretty well protected as is.

So we kind of feel like the existing patio is

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kind of unsightly. We have to clean it up. We have kids. So it would just actually look nicer that we have something more enclosed of the house and style.

Thank you.

MS. BUNTING SMITH: Anyone else?

All right. Thank you very much.

MR. ABRAMS: Thank you.

* * * * *

11/21/2019 - Case No. 19-31

ZBA Case No. 19-31 - Scott Krady, for property located 16 Mulligan Lane (P.O. Irvington, NY). Applicant is applying for an area variance from Section 285-12(B)(3)(d) of the Zoning Ordinance to increase the maximum impervious surface from 29 % (permitted) to 31.6 % (proposed), in order to construct a patio. The property is located in an R-20 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 7.370-188-29.

MS. BUNTING SMITH: The next case on tonight's agenda is Case 19-31, Scott Krady, property is 16 Mulligan Lane.

Carole, we don't have anyone here on this matter?

MS. WALKER: I don't know what happened.

MS. BUNTING SMITH: 16 Mulligan Lane.

MS. WALKER: I don't know what happened. Okay.

MS. BUNTING SMITH: Let's just see what she has in her file.

MS. WALKER: I sent them a letter.

* * * * *

11/21/2019 - Case No. 19-32

ZBA Case No. 19-32 - Evan Pressman, for property located 10 Shaw Lane (P.O. Irvington, NY). Applicant is applying for an area variance from Section 285-15(B)(4)(d) of the Zoning Ordinance to reduce the rear yard setback from 21 ft. (required) to 9.60 ft. (proposed) in order to construct a deck. The property is located in an R-7.5 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 7.370-190-13.

MS. BUNTING SMITH: All right. Moving on to Case 19-32, Evan Pressman, property at 10 Shaw Lane.

MR. PRESSMAN: Evan Pressman, 10 Shaw Lane, Irvington, New York.

Thank you for giving us the opportunity to discuss our request for a variance with you this evening.

We're here because we'd like to build a deck off the back of our house. We've lived in our home for nearly five years. We have three young children. We spend a great deal of time in our yard and we plan to spend the foreseeable future in this house.

We're active members of the Greenburgh community. We enjoy hosting gatherings for our school district and our community groups, both of which my wife and I both actively volunteer for.

There are several reasons we'd like to build this deck. There's currently no easy entry from the main floor of our house into the backyard. It requires walking through the basement or garage to access the backyard making it difficult to enjoy the small patio and to cook and eat outdoor dinners.

As is the case with many yards in East Irvington, ours floods easily. This means that even after moderate rain storms, the yard is unusable for many days which impacts the utility and our enjoyment of the property. So adding a deck to our house would increase our access to and use of the backyard.

Due to the unusual shape of our property and its slope, there is a large area off the side and back of the house that is basically unused and unusable. We would like to build a deck over this area to preserve as much of our usable yard as possible. We've considered multiple designs for a deck. Having a deck of a

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functional size in a desirable location and that we can afford to build will require a variance of some degree. We are asking you to consider this design for several reasons:

First, it minimizes the disruption to the backyard by starting the stairway along the elevated side yard and wrapping it along the rock outcropping so that it empties into a contained section of the yard. In other designs that would require a smaller variance, the stairway would have to empty into the middle of the yard. It would protrude significantly into the usable area of the yard and would interfere with the existing structure of the house and landscaping that we recently had installed.

Second, our proposed design most naturally blends in with the topography of the yard and would be nearly invisible to your neighbors because it would be obscured by slopes, tall rocks, fences, trees, and bushes. It, thereby, also affords us the most privacy.

We have discussed our plans with all of neighbors, including the neighbor whose property directly abuts the site of the requested variance. That neighbor has expressed verbally and in writing that our plans will not interfere in any way with his enjoyment of his property and that he fully supports our proposal.

The other side of the property line from the requested variance is a remote, unused wooded section of his yard far down a large slope from his house and underneath a large deck.

Third, this design enables us to use an existing door to the outside from our house rather than having to remove walls or windows to create a new door, which is a significantly larger building project and one that we could not currently afford.

Fourth, the variance required for our property -- excuse me -- the variance required for our proposed design is smaller than one that was requested by previous owners of our home and approved by the Zoning Board of Appeals in 1995. These previous owners sought to build an addition that required a 16-foot variance at the same point on the property line. So not only is our request significantly smaller, but arguably a deck would have a much more minimal impact on our property, on our neighbor's property, and on the neighborhood more

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broadly, as opposed to a full addition.

Finally, in an area known for small lots and tricky topography, we're fortunate to have a yard that is a decent size and is flat. It was one of the most important reasons we purchased this house. If we put a deck-stairway in the middle of it, it diminishes one of the most attractive features of our house and would render the backyard less esthetically and functionally attractive both to us and to prospective future buyers.

It is for these reasons that we respectfully ask that you approve our request for a variance.

Thank you.

MR. CRICHLLOW: So I do want to ask a question: It shows that the proposed setback for the -- for your deck is 9.6 feet, but that actually is only for one point off of the stairwell or the staircase down, right?

MR. PRESSMAN: That's right.

MR. CRICHLLOW: Because on the surface it would appear as if you're looking for a pretty large variance but, in fact, the deck itself is 19 feet from your property line as opposed to 26, which is required, and it's only that one point for the stairs which is 9.6 feet.

MR. PRESSMAN: That's true.

MR. CRICHLLOW: So it's not as bad as it would appear when you look at it on the surface.

MR. PRESSMAN: Yes. That's our view as well.

MR. CRICHLLOW: The other thing that we noticed when we were there is that was if you wanted to turn the stairs so that it was parallel to the back of your house, which would also reduce the variance, it would actually end up on your patio and then make your patio almost useless.

MR. PRESSMAN: Right.

MR. CRICHLLOW: I just wanted to make sure that that point was put in the record.

MR. PRESSMAN: Yeah. If you turn it the other

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way, you know, to sort of escape that particular point of the yard, that's the outcropping of the property line that's the problem, it would be over -- we'd have to put it directly against the side of the house obscuring the windows on that side and on top of landscaping that we had recently put in. So that's why we didn't want to put it there.

MR. CRICHLOW: Okay. Thank you.

MS. BUNTING SMITH: Any other questions?

Anyone in the audience want to address this?

* * * * *

11/21/2019 - Case No. 19-33

ZBA Case No. 19-33 - Daniel Guzman, for property located 37 Laurel Street (P.O. Hartsdale, NY). Applicant is applying for an area variance from Section 285-15(B)(4)(a) of the Zoning Ordinance to reduce the front yard setback from 20 ft. (required), 15.58 ft. (existing) to 11.75 ft. (proposed); from Section 285-15(B)(4)(b) to reduce one (1) side yard from 10 ft. (required), 1.83 ft. (existing) to 1.83 ft. (proposed); from Section 285-15(B)(4)(c) to reduce a total of two (2) side yards from 22 ft. (required), 17.75 ft. (existing) to 17.75 ft. (proposed); and from Section 285-42(C)(1) to enlarge a nonconforming structure so as to increase such nonconformance, in order to construct a second story addition. The property is located in an R-7.5 One-Family Residence District and is designated on the Town Tax Map as Parcel ID: 8.200-146-4.

MS. BUNTING SMITH: Okay. Moving on to the next case, it's Case 19-33, Daniel Guzman, property 37 Laurel Street, Hartsdale.

MR. GUZMAN: Good evening, ladies and gentlemen. My name is Daniel Guzman. And I'm here with my wife and daughter, seeking a variance to add a second floor addition to our property.

We've been living on the property since 2013, and it's a regular ranch. It's a bit tiny for us, 900 square feet. And we're requesting a variance because our neighbor to the right side, it's fairly close, we have about over a foot difference between our land and their land. And even though it was a great starter home, we're planning to grow our family and we've basically outgrown the home. And what we're trying to do is add a second floor addition, three bedrooms, two bathrooms, and extend outside towards the back as well.

Now, the neighbor to the right side is the one that's fairly close to us, and she's fully approved the variance as well as other neighbors within the 250-square foot radius of our home.

Also, we have support letters from all eight neighbors within the 250-foot radius of our home, and they all approve of the construction.

So there's the proposed plan to our ranch home. So we'll turn it into a colonial. The entrance will be centered now because right now it's a little towards the

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right side of the home from the outside.

We also have side views of the home, right side. And then the proposed deck as well. And left side. Thank you. That's the left side. And that's the portico and the deck as well. And the rear.

Then the layout of the home, the proposed home, I believe that's the next one. Right. So that's the proposed layout of the second floor, master bedroom, Bedroom No. 1, 2, one full bathroom, as well as an en suite and walk-in closets, along with a washer and dryer as well.

Then that would be the proposed layout for the first floor. It would be an office/den, full bathroom, living room, and the extension of the kitchen as well, which is 6 feet to have a formal dining area or a dinette area.

Basically, we have no adverse impact or damage to our neighbors or the community. It would be the opposite. We'll probably bring value to our home and to our neighbors as well, to the community.

MR. CRICHLLOW: So when did you purchase the home?

MR. GUZMAN: 2013. It has been --

I'm sorry. I did forget that we are the only single-story home family on the block. The other home is a two-story home.

We did purchase it in 2013. It is family-owned. It was passed on to us as well, or sold to us from my mother-in-law, which she also applied for a variance in 1986, and it was approved back then. She didn't build because she had to move to a different state at the time. So she canceled the plans.

MR. CRICHLLOW: So when you purchased the house from your mother-in-law, it was already a nonconforming structure?

MR. GUZMAN: Correct.

MR. CRICHLLOW: So your only purpose here is to increase that nonconformance?

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MR. GUZMAN: Exactly.

MS. BUNTING SMITH: Over the existing house?

MR. GUZMAN: I'm sorry.

MS. BUNTING SMITH: Over this area where the existing house is.

MR. GUZMAN: Correct. We're going to take the whole footprint of the home and just 6 feet out, that's where we're going to do the addition, on the rear.

MR. BLAND: And an additional request is due to what, a staircase?

MR. GUZMAN: For the front entrance, for the portico?

MR. BLAND: Currently, you're 15.5 feet, and now you're asking to go to 11.75 in terms of the setback?

MR. GUZMAN: Right, yes, it is for the staircase.

MR. BLAND: But the actual footprint, the foundation of the house is going to remain the same?

MR. GUZMAN: Correct.

MR. CRICHLLOW: So it's just the entrance portico that is extending further into the front yard setback?

MR. GUZMAN: Yes.

MR. CRICHLLOW: You're not building the house further out?

MR. GUZMAN: No. No. No. We're not building forward. No.

Thank you very much.

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

Okay. With that, we are adjourned to our deliberations. We will be back.

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(Whereupon, at 9:35 p.m. the Board retired for deliberations.)

(Whereupon, at 10:20 p.m. the Board returned to the auditorium.)

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11/21/2019 - Case No. 19-21, 19-28, 19-29

MS. BUNTING SMITH: And we are back in session with the results of our deliberations.

Case 19-21, Michael Teverbaugh, is adjourned to the meeting of December 12th.

And the next case, Case 19-28, Ferncliff Cemetery is adjourned to the meeting of December 12th.

The next case 19-29, Jose Bejar, is adjourned for all purposes to the meeting of December 12th.

* * * * *

11-26-19 Case No. 19-30

MS. BUNTING SMITH: Case 19-30, Kim and Darryl Abrams.

WHEREAS, the Greenburgh ZBA has reviewed the above-referenced application with respect to SEQR compliance;

And WHEREAS, the Greenburgh ZBA 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 SEQR consideration.

MR. CRICHLOW: Aye.

MR. BLAND: Second.

MR. CRICHLOW: Second.

MS. BUNTING SMITH: And the Chair, of course, the Chair votes aye.

Do we have a vote?

MR. CRICHLOW: Aye.

MS. BRENNAN: Aye.

MR. BLAND: Aye.

MS. KNECHT: Aye.

MR. LOSAPIO: Aye.

MS. BUNTING SMITH: Okay. Thank you.

Do we have a motion?

MS. KNECHT: Yes. I have a motion.

I move that the application is in case No. 19-30 be GRANTED, provided that:

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

That construction 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

11-26-19 Case No. 19-30

August 16th, 2019, submitted in support of this application;

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 Zone Ordinance shall require variances even if the construction conforms to the heights, setback or other variances we have approved herein.

MR. CRICHLLOW: Second.

MS. BUNTING SMITH: All in favor?

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MS. BRENNAN: Aye.

MS. BUNTING SMITH: Chair votes aye.

MS. KNECHT: 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 that:

Granting the variance will not result in a detriment to nearby properties and will not adversely impact the character or physical or environment conditions in the neighborhood or district because the applicant proposes to construct a three-season, non-heated, single-pane glass enclosed porch. The location of the enclosed porch is in the backyard and encroaches in the rear yard setback. However, it will not be visible to the adjacent property owners as there is substantial existing vegetation and the property itself is at a lower elevation than the adjacent property making it even less visible. The enclosed structure will have to roof to match the existing house. And the surrounding neighbors all support the application.

The goal of the applicant cannot be achieved by some other feasible means without requiring a variance we are granting because the best location for the enclosed porch is at the rear of the house off of an existing access point and located on an existing at-grade patio. There is no other feasible location for the enclosed

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porch than in the backyard which will be used by the applicant as an extension to the backyard.

The requested rear-yard variance is substantial in relation to the requirement sought to be varied in that the requested relief is 17 feet compared with 26 feet required, a 35-percent decrease in the rear yard setback.

However, the applicant is reducing the amount of impervious surfaces as the footprint of the enclosed porch will be smaller than the footprint of the existing at-grade patio.

Finally, the applicant's need for the variance was self-created because he 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.

MS. BUNTING SMITH: Thank you.

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11/21/2019 - Case No. 19 -31

MS. BUNTING SMITH: And the next case on tonight's agenda, Case 19-31, Scott Krady, is adjourned for all purposes to the meeting of December 12th.

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11/21/2019 - Case No. 19-32

MS. BUNTING SMITH: And the next case, 19-32, Evan Pressman.

WHEREAS, the Greenburgh ZBA has reviewed the above-referenced application with respect to SEQR compliance;

And WHEREAS, the Greenburgh ZBA 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 SEQR consideration.

MR. LOSAPIO: Aye.

MR. CRICHLLOW: Second.

MS. BUNTING SMITH: All in favor?

MS. KNECHT: Aye.

MR. CRICHLLOW: Aye.

MR. BLAND: Aye.

MS. BRENNAN: Aye.

MS. BUNTING SMITH: Chair votes aye.

Do I have a motion?

MR. CRICHLLOW: I do, Madam Chair.

I move that the application in Case No. 19-32 will be GRANTED provided that:

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

That construction will 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 May 24th, 2019, submitted in support of this application; and

The variances being granted are for the improvements shown the plans submitted in support of this

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application only. Any future or additional construction that is not in conformity with the requirements of the Zone Ordinance shall require variances even if the construction conforms to the height, setback, or other variances we have approved herein.

MR. LOSAPIO: Second.

MS. BUNTING SMITH: All in favor?

MR. BLAND: Aye.

MR. CRICHLOW: Aye.

MS. KNECHT: Aye.

MS. BRENNAN: Aye.

MS. BUNTING SMITH: Chair votes aye.

MR. CRICHLOW: 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 that:

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 because the deck will not be visible to the neighbors or to passersby since it is concealed from view by trees, tall rocks, and grade changes. The section of the neighboring property to which the requested variance is adjacent to is actually an unused wooded area on a steep slope.

The goal of the applicant cannot be achieved by some other feasible means without requiring the variance we are granting because the most logical and affordable place to build the deck is adjacent to the kitchen and over the existing patio, which allows use of an existing door to the outside. The location also uses an area of the rear yard that is mostly unusable and allows to maintain use of the flattest part of the property.

The requested variance is substantial in relation to the requirements sought to be varied; in that the requested relief is 9.6 feet compared with 21 feet, which is required, which is a 54.2 percent increase, but that is only at a single point where the stairs make a

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turn. The actual deck is 19 feet versus 21 feet, which is a 9.5 increase.

The applicant's need for the variance was self-created because they purchased the property with the knowledge of the requirements of the Zone 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.

MS. BUNTING SMITH: Thank you.

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11/21/2019 - Case No. 19-33

MS. BUNTING SMITH: And the last case on tonight's agenda is Case 19-31, Daniel Guzman.

WHEREAS, the Greenburgh ZBA has reviewed the above-referenced application with respect to SEQR compliance;

And WHEREAS, the Greenburgh ZBA 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 SEQR consideration.

MR. LOSAPIO: Aye.

MS. BUNTING SMITH: In all in favor?

MS. KNECHT: Aye.

MR. CRICHLLOW: Aye.

MR. LOSAPIO: Aye.

MR. BLAND: Aye.

MS. BRENNAN: Aye.

MS. BUNTING SMITH: Chair votes aye.

Do I have a motion?

MR. BLAND: Madam Chair, I move that the application in Case No. 19-33, be GRANTED, provided that:

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

The 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 October 31st, 2019, submitted in support of this application.

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

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the requirements of the Zone Ordinance shall require variances even if construction conforms to height, setback, or other variances approved herein.

MR. CRICHLOW: Second.

MS. BUNTING SMITH: All in favor?

MR. LOSAPIO: Aye.

MS. KNECHT: Aye.

MR. CRICHLOW: Aye.

MR. BLAND: Aye.

MS. BRENNAN: Aye.

MS. BUNTING SMITH: Chair votes aye.

MR. BLAND: 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 surrounding 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.

The requested variance is within the same architectural footprint with only the minor addition of a portico to the front of the building. The nature of the property lends no alternative without creating greater variances.

2, The goal of the applicant cannot be achieved by some other feasible means without requiring the variance we are granting because due to the pre-existing nonconformity of the property. Moreover, the proposal is in keeping with the character and nature of the neighborhood and will be of minimal disturbance to the existing properties.

The requested variance is not substantial in relation to the requirement sought to be varied; in that the requested relief is 11.75 feet compared with 15.58 required, a 24.6 percent decrease.

There were two other variances which are

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further nonconformity with a 0 balance of change on either side of the property.

The applicant's need for a variance was self-created because he/she 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.

MS. BUNTING SMITH: Thank you.

And with that, we have completed our jobs for the evening.

And I trust everyone gets home safely and has a happy, prosperous Thanksgiving and doesn't overeat too much.

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

* * * * *

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



Nadine Kristoferson,
Official Court Reporter