

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,
-----x

September 21, 2023
7:00 p.m.

Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York

BOARD MEMBERS:

Eve Bunting-Smith, Chairperson
Kristi Knecht
Diane Ueberle
Shauna Denkensohn
Pauline Mosley

STAFF MEMBERS:

Joseph Danko, Esq.
Town Attorney

Edward Lieberman, Esq.
Deputy Town Attorney

Elizabeth Gerrity
Deputy Building Inspector

Garrett Duquesne
Commissioner Department of Community Development

Kyra L. Jones
Secretary to the Zoning Board of Appeals

MICHAEL A. DeMASI, JR.
OFFICIAL COURT REPORTER
(Recording in progress.)

CHAIRPERSON BUNTING-SMITH: All right. In case you are in the wrong room, this is the Zoning Board of Appeals. And tonight is September 21st and before we proceed with our meeting, we're going to have a roll call.

MR. DUQUESNE: Thank you. Shauna Denkensohn?

MS. DENKENSOHN: Here.

MR. DUQUESNE: Diane Ueberle?

MS. UEBERLE: Here.

MR. DUQUESNE: Eve Bunting-Smith?

CHAIRPERSON BUNTING SMITH: Here.

MR. DUQUESNE: Kristi Knecht?

MS. KNECHT: Here.

MR. DUQUESNE: Pauline Mosley?

MS. MOSLEY: Here.

MR. DUQUESNE: For the record, William Bland and Louis Crichlow are not present. Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you. The meeting will now come to order. We have nine cases that are scheduled for tonight's agenda. And I will say some of the cases are fairly weighted. When I say, weighted, I mean, waited.

As usual, if we cannot complete hearing any case tonight, it will be adjourned to another meeting, hopefully

to be completed at that time. Please note that the Zoning Board will have our next regular meeting on Thursday, October 19th at 7:00.

As is usual, to save time, we'll 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 information also appears in the agenda for tonight's meeting. Hopefully, if you've got a new agenda with eight cases on it, that's not the right one. We do have nine cases.

After the public hearing of tonight's cases, the Board then meets to discuss the cases here in this room that we've heard. Everyone here is welcome to listen to our deliberations, but the public will not be permitted to speak or participate at that time. After our deliberations then we announce the Board's decision and it is broadcast to the community.

If you're going speak, and this is really important, because I see we have a lot of people here. And if you want your case or your comments to be heard, you must be on the microphone and on the record, otherwise, you're either talking over someone else, confuse what is being able to take down and also if you're making comments from the back and you think they're being heard, they're not, because if it's not on the record, it's not on the record.

So I would like you to come up to the microphone and speak. State your name, your address, your professional affiliation if you're not a named applicant and then, if necessary, spell your name for the record.

We've heard a lot of testimony on some of the cases that we do have on tonight at prior meetings. Please, please, any prior testimony is already in the record and should not be repeated. Anything that you have submitted to the Board also is in the record. So you don't have to read it again.

Because of circumstances, we have to complete this evening's affairs by 10:45. And due to the number of cases on our agenda and the magnitude of each of the -- certain of the applications presented, we have to limit the time for each presentation to make it fair for all present presenters.

It will be curtailed to 15 minutes for each matter. If there is excess time at the end of us hearing the cases that will allow for our deliberations, we may, at that time, be possible to allow more time to the cases that have a lot more information to provide.

* * * *

Case No. ZBA 23-14: 450 Secor Road LLC/ Hartsdale Greenhouses, 450 Secor Road (P.O. Hartsdale, NY 10530) - Appeal Determination of Building Inspector/in the alternative a Use Variance.

The Applicant is appealing a determination of the Building Inspector that the processing and sale of wood products that are not grown or harvested on-site is not a permitted use. In the alternative, if the appeal is denied, the Applicant requests a use variance from Section 285-48B of the Code of the Town of Greenburgh for the sale and processing of firewood and mulch that is not grown or harvested on-site.. The property is located in the R-10 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.120-70-53 and 8.120-70-54.

CHAIRPERSON BUNTING-SMITH: The first case to be heard tonight is case 23-14 Hartsdale Greenhouses.

MS. CHIOCCHIO: Good evening, Madam Chair, and members of the Zoning Board of Appeals. For the record. My name is Lucia Chiocchio, a partner with Cuddy and Feder. And we represent Hartsdale Greenhouses. I'm joined tonight by my client, Carol and Tony Avila.

Since we were last here in July, every member of the Zoning Board of Appeals had an opportunity to visit the site and tour the site with my clients. And I would like thank Ms. Jones for coordinating that. That was very

helpful. So thank you for coordinating that for us.

I'm going to turn it over to my client, Carol Avila. She has a short statement that she'd like to make. And then I'll come up and what I thought would be helpful is just to summarize our last submission and some of the salient facts for your consideration.

So, with that, I'll turn it over to Carol.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. AVILA: Hi, I'm Carol Avila, property owner and business owner at 450 Secor Road. Good evening, Madam Chair, and members of the Zoning Board. I would first like to thank each one of you for the time you took to visit our site.

After completion of all the visits, I do see the value of having the operation seen from a different perspective and would like to thank you again for your time and the respect that you give us.

After hearing the opposing remarks made at the ZBA meetings on June 15th and July 20th, it is apparent that this case has become very emotional, perhaps controversial, with deep animosity carried over from generation to generation. My knee-jerk reaction was to go line by line and list everything that makes this statement valid.

However, in the spirit of moving forward and trying to build good relations with the community, I decided

against it. I would like to request all of you on the Board to please look at this case objectively.

As I mentioned at the last meeting, I come from a family who is deeply rooted in the community starting with my grandparents residing and operating a business in Hartsdale, from the beginning, which makes me the third generation and proudly raising my two daughters, the fourth generation.

My family and I will hope to continue our business and return to do what has been done from the beginning and that is the horticulture operation alongside with the wood production. We are not asking to do anything different than what has been done. And we are committed to the mitigation measures to address the concerns of our neighborhood.

If the wood production is taken away, the business will not be able to sustain itself on horticulture production alone. It would be a matter of time for the Town and the community to lose a 68-year family-operated business.

Not only will the Town lose another small business, but the unique character of the property will forever be gone, most likely to be developed. Is this the vision of my Town and the community? Thank you.

MS. CHIOCCHIO: So as noted with Ms. Avila, there was some history with some of the neighbors and they don't

want to have an adversarial relationship with their neighbors. They really do want to move forward.

In our last submission we talked about the case that was brought by Ms. Avila's father with some of the neighbors when Ms. Avila inherited the business, she instructed the attorneys to drop the case. She has no interest in having this adversarial relationship.

And because of that, we thought it was important, and they thought it was important to clarify some items. Some of recent submissions and some that we've provided in the record.

Some have commented that Ms. Avila's grandfather could not have started the business right after he purchased the property in 1955 and before the zoning code was updated in 1957. As we indicated in our last submission, as Ms. Avila said at the last hearing, her grandparents actually operated a farm stand at 701 Dobbs Ferry Road. The purchase of 450 Secor Road allowed them to expand and establish business that included horticulture, wooden mulch.

So this wasn't something that where they purchased the property and a business sprung up. They had that business and they were able to expand it with the purchase of the property.

Comments were also made that the wooden mulch was started after Ms. Avila's father died in 2010. And someone

noted that based on their experience, their past experience, that they didn't believe that Ms. Avila's grandfather and father's nursery business included wooden mulch.

So we provided in our September 11th submission some information about how this business was operated. Wooden mulch were always part of the business along with horticulture. What changed was the machinery and method of operation.

In the 1950s, when this business was established, the machinery that exist today was not available. However, Hartsdale Greenhouses did produce wood product and what was available at the time.

Demand for wood products grew so did the implementation of new equipment. And we believe the same perception related to the wood burners. I think that people in the neighborhood felt that the wood burners were used as part of the wood processing, part of the wood business. They were never used for that.

As we've indicated, they were used to heat the greenhouse for the horticultural products and to protect the greenhouses when the temperature dipped below freezing. Nevertheless, the Avila's have disconnected the wood burners. They are not going to use the wood burners. They actually hired a company that came out, disconnected them, took them offline on August 24th.

Reference was made to a statement by the building inspector that when he met with the Avila's, the Avila's indicated that they wanted to abandon their horticulture business. It's very important to the Avila's that you understand that that is not what they represented. It may have just been a misunderstanding that they were talking about their horticulture business decreasing, the demand decreasing as we discussed previously because of competition from big-box stores.

They have no intention of abandoning their horticulture business. We provided some photos of the last year of the horticulture products. We also provided the New York State Agriculture Markets report that was conducted. And you may have seen some products during your site visit.

We also want to clarify what transpired at the December 2022 inspection by the building inspector, the Hartsdale fire chief, the Town engineer and representatives from DEC and the Westchester County Solid Waste Commission.

Comments were made that a fire broke out at this inspection. That's not the case. The mulch piles did not ignite into fire. We talked about this last time. I think it bears repeating; the mulch -- and I know this too, my client explained this, the mulch piles, because the mulch is hotter than the air when the cold air hits them, you see some vapor.

And it's similar to when it's a very cold day and you can see your breath because your breath is warmer than the air around you. At that site visit the DEC officer, Chloe Swanson, measured the temperature of the mulch pile. She had a probe and she measured it and they were well within the acceptable range.

There was no fire. The fire department was not called. We did ask the fire department to provide any incident reports for the last year. And the fire chief, Ray Maseda, indicated that there were no incident reports for the property. So we really thought that was important to understand.

Comments were also made that as a result of this inspection, the DEC issued a violation for an illegal transfer station. As stated in prior submission, the incident report indicated it was determined by the DEC's materials management team, that the site was not being used as an illegal transfer station.

The DEC violation was in connection with the size of the mulch piles. Under a certain, size registration is not required, and that's how Hartsdale Greenhouses operates. This past Monday this DEC have violation was dismissed.

And most importantly, I think for tonight, concerns were raised about truck traffic and the ZBA did request additional information about that. So as we explained in

our September 11th submission, approximately seven trucks enter the site daily for the fire wood and mulch business. About four of them are the size of a pickup truck and three are a little bit bigger. We've tried to provide a picture. They understand what the size of the trucks are based on weight.

It's also very important to note that as the horticulture business decreased because of decrease in demand, so did the number of trucks entering and existing the property. The truck traffic for the horticulture business was three to four times the truck traffic that the wooden mulch business, you know, elicits.

There are no safety issues with the trucks entering and exiting the property. To address any neighbors' concerns, the Avila's are willing to divert all heavy trucks entering and exiting the property to the east side of the property and that's the side of the property that abuts the ConEd transmission lines the and Sprain Brook Parkway.

It's really important to know when you think about this that Hartsdale Greenhouses is not the source or a significant contribution to the truck traffic on Secor Road. At the eastern end of Secor Road, you have West Hartsdale Avenue that leads to Central Avenue, it leads to the train station and 287. That's a busy -- those are all busy roads, busy corridor.

On the western end, 9A leads to the throughway, the Saw Mill Parkway. Once again, these are very busy roads. So Secor Road kind of connects all of these very busy roads. Hartsdale Greenhouses is not contributed a significant amount of traffic to Secor Road.

To think about what's happened since COVID, a lot of deliveries now. Folks are getting things delivered, they go on online shopping. That contributes to the truck traffic.

Also consider the variances that were issued for the other nurseries where they were permitted to sell products that they don't create or make on their premises. All those products have to get delivered to those nurseries. So there's truck traffic associated with that.

And another consideration is the potential for single-family homes on this property. If the Avila's are not able to sustain their business by continuing the wood and mulch operations, and the property is developed to single-family homes, in the R-10 zoning district, the minimum lot size is 10,000 square feet.

So you can potentially see 20 to 30 homes here. That's a lot of traffic. It's a lot of traffic for construction over years and once the homes are there, that's a lot of cars coming in and out of the site.

And, finally, with respect to the walkability of

Secor Road; we provided a map that shows -- most of Secor Road does not have sidewalks. It's really not a walkable road. Or a road that's safe for bicycles.

And I'd like to just summarize the mitigation measures you heard from Carol that they are committed to the mitigation measures. Wood burners discontinued offline. Not going to use them.

They are relocating the mulch and wood machinery to the eastern side of the property. Throughout the site you saw that that's closest to the ConEd transmission lines and the Spain Brook Parkway. That's approximately 450 feet from the western property line that abuts Jennifer Lane.

They did hire an engineer who took metered readings at that property line, at the western property line. They turned on the machinery, he did another reading and did not find any discernible difference in the noise at the property line that abuts the residents.

Given those results, they are still willing to install a natural barrier around the equipment to further dampen the noise of that equipment. They're going to limit their hours of operation of the heavy machinery, 8 to 4:30 Monday to Friday, and 9 to 3 on Saturday. And they will, as I said earlier, divert heavy trucks to the east side of the property.

With that, I'd like to sum by just saying that as

Ms. Avila and her husband have indicated, they are simply seeking to continue the business that was started by Ms. Avila's grandfather 68 years ago. They're now the third generation to do this. They're not looking to expand into a lumberyard or any other kind of wood processing other than splitting trees into logs for firewood and creating mulch in addition to the horticulture.

They have roots in the neighborhood. They like living in this neighborhood. They live at the property. They really want to continue their business in harmony with their neighbors and are really committed to the mitigation measures that I mentioned.

So we're happy to answer any questions.

CHAIRPERSON BUNTING-SMITH: Well, we've almost used up our 15 minutes. I'd like to know, who's in the audience that wishes to address this case? I don't know if we can hear all of you at this point tonight.

Do you have a spokesperson that you can nominate who can come forward? Because we do want to try and hear something from you, but we also need to hear the other cases that we have this evening. You have to come up to the mic.

MS. WILK: Carol Wilk, president of the Secor Home Civic Association. I just wanted to indicate that it looks like a lot of hands, but the statements are very short.

CHAIRPERSON BUNTING-SMITH: Okay.

MS. WILK: And important and I would like --

CHAIRPERSON BUNTING-SMITH: What is short to you?

And I'm not being facetious, but --

MS. WILK: Two-and-a-half minutes.

CHAIRPERSON BUNTING-SMITH: Okay. Go ahead.

MS. WILK: But I would like to introduce Mrs. Madelon O'Shea, who's the president of the council of the Civic Association. She's our most important witness here tonight.

MS. O'SHEA: Madelon, M-A-D-E-O-L-N O'Shea. Madelon O'Shea, the Chairman of the Council of Greenburgh Civic Association.

CHAIRPERSON BUNTING-SMITH: Can everyone in the back hear her? Try to get as close as you can to the mic.

MS. O'SHEA: Chairman Bunting-Smith and members of the ZBA, at its meeting on Monday, September 18th, 2023, the council of Greenburgh Civic Association once again discussed the Hartsdale Greenhouses application. Which seeks either an interpretation or a use variance to continue the processing and sale of fire wood and mulch at the 450 Secor Road site.

CGCA is replying to the September 11th letter from the applicant's attorney that was submitted in furtherance of this application and in response to the ZBA's August 1st request for additional information. The ZBA requested the

applicant to provide information on financials as it relates to a substantial lack of return for any permitted use.

New York State Town Law Section 267B2 paren b paren 1, requires that applicants requesting a use variance must demonstrate to the ZBA with dollars and cents proof that, quote, for each and every permitted use, closed quote, in the one-family zoning district in the Town of Greenburgh zoning ordinance. They cannot realize a reasonable return on the property.

The September 11th letter fails to address this requirement. And makes only brief reference to information contained in the applicant's earlier April 27th submission.

Since the proof required by New York State law was not provided, the ZBA is precluded from granting the requested use variance. The ZBA also requested the applicant to provide history of preexisting, nonconforming use for which a variance is sought, including inspections performed by the building department.

The attorney's letter reiterates the statement made numerous times in this application that, quote, Wood and mulch were always part of the business since 1955, closed quote.

In fact, this latest letter asks that the wood and mulch operation actually began sometime earlier at 701 Dobbs Ferry Road where the applicant's grandparents had a

farm-stand and the use expanded to the acquisition of the property at 450 Secor Road in 1955. No documentation was provided to support this claim.

The 1932 zoning ordinance required a special permit from the ZBA to operate a farm-stand. Why is there no record of a permit being issued? And what provision of the 1932 zoning ordinance permitted the transfer of the business from one property to the other?

Fact; the 1932 zoning ordinance, the 1957 zoning ordinance and the current 1980 zoning ordinance, and all amendments hereto do not permit the processing of fire wood and mulch in residential zoning districts.

At the July 20th, 2023, ZBA public hearing, the counsel's statement pointed out that the 3.66-acre parcel at the 450 Secor Road site wasn't even mentioned. This is the parcel where the applicant's attorney states the splitting of trees into firewood and grinding of wood into mulch has purportedly taken place for the last 68 years.

The attorney's latest letter now at least mentions this parcel as part of the application, however, it is questionable whether this application was properly noticed. Why is there no mention of the fact that the current owner's father did not purchase the vacant 2.66-acre parcel until December 27th, 1984? 29 years after the grandparents purchased the other parcel in 1955.

Are we to believe the applicant's father and grandparents were running a wood and mulch operation on a property they did not own? In order to pay -- to obtain a lower tax assessment rate on January 10th, 1985, and again, in February 25th, 1986, the applicant's father signed commitment documents filed with Westchester County Land Records indicating that the total 12.55 acres of these two parcels were being used and would continue to be used for, quote, Continued agricultural production, closed quote, for the next eight years.

Bringing in trees from offsite and running a manufacturing process of cutting them into firewood and grinding them into mulch has never been defined as an agricultural use.

A footnote; on page two of the attorney's letter states that the current owner, the granddaughter of the couple that started the business, quote, Would be in the best position to know the history, closed quote. In fact, the current owner was not alive in the 1950s or the 1960s. And only a very young child in the 1907s. Without documentation, or even photographs, a young child's memory is not acceptable proof of the history of a property.

The attorney's letter suggests that neighbors, quote, Did not realize that the wood and mulch operations, closed quote, was part of the original business and assumed

these operations began more recent when wood burners and larger equipment was use.

This claim totally ignores the statement of a number of longtime adult Greenburgh residents who said they regularly shopped at Westchester Greenhouses and there was no firewood or mulch for sale at either the Secor Road site or at the previous owners other business site on West Hartsdale Avenue until recent years.

This claim also ignored ZBA Member Diane Ueberle's statement tat she grew up in the area and played on the vacant parcel in the 1960s, and there was no wood or mulch operation on site.

Ms. Ueberle also stated that firewood was not for sale at Westchester Greenhouses until around the time when Super Storm Sandy hit in 2012.

The letter attaches two blurry area photographs from 2000 and 2004, Exhibit A, with circled items that are purportedly wood piles. These photographs are 45 and 40 years after the claims a wood and mulch operation began and chose only a small pile of wood.

The council representatives have suggested that they have larger piles of wood in their small backyards when they had to cut down trees on their property. Is it possible the photos show wood that was chopped down from trees on site and meant to be used in either a fireplace or

wood burner on site?

Earlier aerial photos show the 3.66-acre parcel covered by lots of trees. In response to the ZBA request for information on past inspections performed by the Building Department, the attorney's letter mentions only three visits by the Building Department and one visit by the Department of Community Development and conservation for a tree removal permit.

The letter points out that the wooden mulch operations were, quote, Readily visible, closed quote, at these site visits and implies that town officials found no problem with them.

Town records indicate that there were more visits by town officials, but the CGCA encourages the ZBA to focus on just one of the visits listed. The attorney's letter mentions, quote, In November of 2008 and March of 2009 inspections were conducted by the Building Department in connection with the leasing of space for commercial vehicle parking, close quote.

The letter noted that a use variance was requested and points out that it was, quote, Not for the wood and mulch operations. And the attorney boldfaced the word, not.

The CGCA urges the ZBA to check the official record regarding ZBA Case 09-10 filed in 2009. According to the information the building inspector provided in his June 2nd

memo to the ZBA. The applicant's father sought a use variance, quote, To permit the burning of wood in furnaces, parking of commercial trucks and to allow delivery of wood for the use in greenhouse furnaces, closed quote.

Why would an applicant need to seek a variance in 2009 to permit the delivery of wood for the use in greenhouse furnaces if the applicant had been operating a wood and mulch operation and selling these products from the site during the past 54 years?

The applicant has not presented the required documentation for the Zoning Board to even consider a use variance. Therefore, the only task before the ZBA is deciding whether the building inspector was correct when he determined the heavy commercial manufacturing use of importing trees from offsite and chopping them into firewood or grounding them into mulch for sale was not a legal --

MR. BODIN: We'd like to speak too. If you take all the time --

MR. DUQUESNE: Mr. Bodin, Mr. Bodin, the Chairperson will --

CHAIRPERSON BUNTING-SMITH: I asked you to sit down, Mr. Bodin.

MR. DUQUESNE: Please sit down.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. O'SHEA: Was not a legal preexisting

nonconforming use. Since the applicant's family did not even own the property being used for this operation until December 27th, 1984, only the current 1980 zoning ordinance must be consulted.

The Council of Greenburgh Civic Association urges the Zoning Board to deny this application. Allowing this operation to continue will set a dangerous precedent.

Please uphold the building inspector's determination that this heavy commercial manufacturing use is not permitted in residential zoning districts. This type of use is not even permitted in most Town of Greenburgh commercial zoning districts.

Please, protect our residential neighborhoods.

CHAIRPERSON BUNTING-SMITH: I am going to, at this point, suspend this case and move forward on another case. I realize there are people here who wish to speak. If you are not able to come to the next meeting, you can submit a letter, or you can wait and see if we have time when we've gone through the other cases. Thank you.

And what you should know is that, based upon the remarks that I made earlier, we are going to lose a Board member later in the evening. So that's why we're trying to get out of here, because then there will only be four of us. And if you want us to vote on something and there's four of us and we all don't -- all in agreement, it goes one way or

the other.

So I want you to be aware of that.

* * * *

Case No. ZBA 23-19: 141 Central Avenue LLC, 141 S. Central Avenue (P.O. Hartsdale, NY 10530) - Sign Variances.

The Applicant is requesting variances from Section 285-29.1B(8)(4) of the Sign and Illumination Law to increase the maximum overall square footage of a Monument Yard Sign from 30 sq. Ft. (Permitted) to 35.7 sq. Ft. (Proposed); from Section 285-29.1(B)(8)(b)(3) to increase the maximum width of a Monument Yard Sign from 6 ft. (Permitted) to 9.5 ft. (Proposed); and from Section 285-29.1B(8)(b)(3) to decrease the open space at the bottom of a Monument Yard Sign from 6 ft. (Required) to 0 ft. (Proposed), in order to replace a non-conforming Monument Sign with a new Monument Sign on the subject property. The property is located in the CA - Central Avenue Mixed-Use Impact District and is designated on the Town Tax Map as parcel ID: 8.300-227-3.

CHAIRPERSON BUNTING-SMITH: And the next case we have on is Case 23-19, 141 Central Avenue, LLC.

MR. DUQUESNE: Did you intend to share a screen or did you need help with that?

MS. STERN: I'm not sharing a screen. No.

MR. DUQUESNE: Okay.

MS. STERN: I submitted --

MR. DUQUESNE: I'm sorry, ma'am. I just sent you a prompt. You should be able to now share screen.

MS. STERN: Oh, I see it. Thank you. So I'm Maggie Stern. I represent -- I'm the owner's agent for 141 Central Ave, LLC. And we've submitted an application for a zoning variance on the size of the monument that we would like to install on the front lawn of the building.

The ownership has completed a multimillion dollar facade renovation of the property and we have feel -- well, let me go back. We lost our existing monument when the state came in and had us remove it because they were installing a sidewalk.

And once that went down, we could no longer reinstall the monument in its current location, nor did we feel that that exiting monument was complimentary to new the facade that we had just completed.

So we're asking for permission to install a new monument that would compliment the new facade and the new appearance of the property. We feel it's fitting, it's complimentary.

The location of it would be out of all sight lines. It does not create any pedestrian or vehicular interference with the shopping center next door and we asked to move it to the new location because, in the past, I have been with this ownership for over 12 years. We have had five cars drive through the monument where it was in its original location.

So we feel this would even be a better location to mitigate that from happening going forward. So the tree that's in that photo is no longer there. That was taken down because of the sidewalk and that is the location of where we would like to put the new monument.

The -- that is the existing monument. The new monument is lower than that monument. And it's far more attractive. The building is occupied by all of the premiere hospitals in the county and we really feel that this would be the -- like icing on the cake, per se. It's the final piece of the entire restoration of the site.

The monument would be lower, it would be a little bit longer. It is smaller than the monument across the street at the furniture store. And we hope that the Zoning Board agrees that the upgrade we've made to the site that this would compliment that project.

CHAIRPERSON BUNTING-SMITH: Any questions from the Board?

MS. UEBERLE: So I was out there and there is one up now. Are you replacing that?

MS. STERN: There is no monument on the site now. There's just a yellow temporary sign that says, 141. Just so that there is some sort of indication of the address, but that's just a temporary, yellow, two wood sticks signs. There is no monument on the site at the moment.

CHAIRPERSON BUNTING-SMITH: Was the previous sign in -- within the boundaries of the zoning? I just want to know was it -- did it comply with the code?

MS. STERN: The prior sign was grandfathered. It was actually taller than the current zoning codes. It was grandfathered from when it was originally constructed, which was long before my time.

But once it came down we, you know, that's just not really complimentary to -- we can't put it back up in that form, it's destroyed. And we don't really feel it's an attractive sign. It's tall, and we really felt after the development that what we have designed was more in keeping with the new facade of the property.

And in addition to the landscaping, all of the landscaping has been redone on the front lawn. So we've, you know, we don't feel the tall monument is aesthetically organic to this site anymore.

MS. DENKENSOHN: Do you have a picture of the new landscaping?

MS. STERN: I believe there's a picture of the facade of the front of the property in the package that I submitted. Is there not the --

MS. UEBERLE: I actually have a picture that -- because I was at the site -- that I can share with the Board members.

MS. STERN: I mean, it's really quite beautiful, the entire property, at this point. That monument, the Lazy-Boy monument is actually larger than the one we're requesting.

CHAIRPERSON BUNTING-SMITH: Any other questions?

MR. DUQUESNE: Madam Chair, just a quick comment: I do want to actually thank the applicant who was very accommodating over the course of sidewalk construction. I oversaw that project on behalf of the Town cementing a grant. And there were quite a bit of features that had to be moved around, including her existing sign. I just generally want to thank the site manager as they worked closely with us and accommodated all the requests we had connection with this.

MS. STERN: It was a pleasure.

MS. MOSLEY: I just had a question. My question is: You mentioned earlier before that with the old sign cars ran into the sign. That's unfortunate.

So with the new sign being erected, how is this new sign going to curtail cars from?

MS. STERN: I don't think it will. I don't think it will. Unfortunately, I don't think the monument had anything to do with why there were so many. I think the curve on Central is the issue, whether it's the sun. I don't really know what causes, but very strangely, cars

coming around the curve heading towards the four corners for some reason seem to lose control. And, for some reason, which we can't explain, they seem to run through that front lawn.

And the monument was what took the hit every single time. I even explained that when they were putting the sidewalk in. I voiced that concern that there have been multiple car accidents of cars coming across around that curve.

I don't think that it's to going mitigate it. It's just going to mitigate at this location where we're putting the new monument will not be run over.

I'm hoping that, you know, there are no future car accidents, but, again, the sign wasn't a mitigating factor of the accidents. It was just a repercussion of them.

CHAIRPERSON BUNTING-SMITH: Any other questions? Anyone in the audience want to comment on this case? Anyone in the audience want to comment on this case? No one. All right. Well, thank you for your presentation.

MS. STERN: Thank you very much for your consideration. We appreciate it.

* * * *

Case No. ZBA 23-20: Daberto Henriquez & Flor Sosa / Hart Hills Hospitality LLC, 45 N. Washington Avenue (P.O. Hartsdale, NY 10530.) - Area Variances.

The Applicant is requesting area variances from Section 285-19B(1) of the Zoning Ordinance to reduce the required 3,000 sq. Ft. Minimum lot area per dwelling unit from 24,000 sq. Ft. (Required) to 22,912 sq. Ft. (Proposed); from 285-19B(3) to increase the maximum principal building coverage from 18.3% (permitted) to 18.8% (proposed); from 285-19B(4) to reduce the minimum rear yard setback from 40 ft. (Required) to 35.16 ft. (Proposed); from 285-19B(5)(a) to reduce the minimum distance from the principal building to a parking area from 10 ft. (Required) to 4.2 ft. (Proposed); from 285-38G to reduce the dimensions of an off-street loading birth from 15 ft. X 45 ft. (Required) to 8 ft. X 26 ft. (Proposed), and to reduce the required landscape buffer from 10 ft. (Required) to 4.16 ft. (Proposed), [or alternatively, receive a waiver from the Planning Board], in order to construct an eight-unit apartment building with underground parking on the subject property. The property is located in the M-14 - Multi-Family Residence District and is designated on the Town Tax Map as parcel ID: 8.250-183-3.

CHAIRPERSON BUNTING-SMITH: The next case is case 23-20, Hart Hills Hospitality, LLC.

MR. STEINMETZ: Good evening, Madam Chair, members of the Board. David Steinmetz, from the Law Firm of Zarin and Steinmetz, here this evening representing Hart Hills Hospitality.

Before I start my presentation, I'm joined this evening by my client, Daberto Henriquez. Daberto is concerned that we do not have a full Board this evening. At least two of your Board members have visited his property and conducted a site inspection. Some of whom were very actively engaged in the discussion of the issues concerning this matter.

He is concerned that he doesn't have a full Board. If I knew that your Board was willing to take a straw poll vote and there would be nothing binding on my client and we would have a right to adjourn, I would adjourn.

If you're not comfortable doing that, then I would adjourn this evening and come back when we have a full Board. I know there are some neighbors here. My client doesn't intend or wish to be disrespectful in any way to his neighbors, however, more importantly, for himself, he doesn't want to prejudice his own record.

In 30 seconds or less, I've spent months in front of Planning Board. I received a negative declaration on under SEQRA. I received a positive referral from the Planning Board on this application. I'm ready to move

forward and secure our variances that we believe we've documented and are well deserved, but that's not my decision, that's Daberto's. And for him, he'd like to see the whole Board here.

So, Madam Chair, I again, I'm searching for the best way to address this. I don't want to waste your time. I don't want to waste my client's rights and privileges.

CHAIRPERSON BUNTING-SMITH: I know this maybe a little unusual, but how many people are here to speak on this matter? Looks like four.

Could you come back or is there any impediment to -- from the applicant to allowing them so you can hear what they're -- what they have to say tonight or not? I leave it up to you.

MR. STEINMETZ: So it's my client's application, not the neighbors. So if we all collectively, with your Board decide we're adjourned, we're adjourning, and the neighbors will have the same due process rights to return should they wish to do so.

My concern is that, and my priority has to be my client's due process rights. And that's why I rise, Madam Chair, to the podium before I even begin presentation -- I'm ready to go.

CHAIRPERSON BUNTING-SMITH: I understand.

MR. STEINMETZ: But I feel somewhat hamstrung on

that. I know it's not the Chair's fault, I know, but there are issues in terms of having a full Board and I hope you all understand that.

CHAIRPERSON BUNTING-SMITH: We do. We accept that.

MR. STEINMETZ: I would respectfully request then that we adjourn to the next meeting and at that time hopefully we will have a full Board.

CHAIRPERSON BUNTING-SMITH: We would have to take a vote on that.

MR. STEINMETZ: My understanding, from Mr. Lieberman, is I'm entitled to one freebie.

CHAIRPERSON BUNTING-SMITH: Oh, you haven't had one?

MR. STEINMETZ: And I get an ice cream cone or something with it. I'm not sure.

MR. LIEBERMAN: But that's based on a 48-hour request.

CHAIRPERSON BUNTING-SMITH: Right.

MR. STEINMETZ: Well, you know what, again, I mean no disrespect, but now I'm going to be honest, in other communities, and you all know, I'm on my feet two, three nights a week throughout this county. I get calls, day of show, David, we don't have a full Board. David, we only have four people. David, we have five, so you guys --

CHAIRPERSON BUNTING-SMITH: I understand that, but

things come up.

MR. STEINMETZ: Understood. So I don't want to hear about a 48-hour rule because people in this room have my cellphone, people have my email. Everybody can reach me.

CHAIRPERSON BUNTING-SMITH: All I said was is that we would have to take a vote.

MR. STEINMETZ: That's fine. Well, I heard something about a 48-hour rule on my freebie. So I --

CHAIRPERSON BUNTING-SMITH: I don't know. I don't have any control over that.

MR. STEINMETZ: All right. Well, I'm asking you to consider it. In any event, with all due respect, we would request an adjournment.

CHAIRPERSON BUNTING-SMITH: Thank you. I don't know if we can vote now or we have to wait.

MR. LIEBERMAN: Well, on a procedural vote, you can vote now.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. LIEBERMAN: People don't have to wait around.

CHAIRPERSON BUNTING-SMITH: That's true. All right. Are we prepared? All right. Want to make a motion?

MS. KNECHT: Sure. I move that Case Number 23-20, Hart Hills Hospitality, be adjourned to the meeting of October.

MS. DENKENSOHN: I second.

THE COURT: All in favor?

MS. MOSLEY: Aye.

MS. UEBERLE: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye.

MR. STEINMETZ: Thank you all. My client appreciates it. Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you. We apologize to neighbors that are here, however, if you wish, you can put your comments in writing and that will become part of our record. You can send us letters.

MR. LIEBERMAN: Or they can come.

CHAIRPERSON BUNTING-SMITH: Or you can come in person or you can do as we do on the Zoom. You can also appear from your home. So thank you.

MR. HENRIQUEZ: Thank you very much.

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Case No. ZBA 23-21: EDC 7 LLC / Thalle Industries, Inc., 50 Warehouse Lane South (aka 7 Warehouse Lane (P.O. Elmsford, NY 10523) - Special Permit Modification and Renewal For the modification and renewal of a special permit previously granted by the ZBA on April 12, 2002 (ZBA Case 01-35) in order to resume and expand its rock crushing and aggregate reclamation facility. The property is located in the GI - General Industrial District and is designated on the Town Tax Map as parcel ID: 7.180-52-20.SE.

CHAIRPERSON BUNTING-SMITH: The next case on tonight's agenda is Case 23-21, EDC 7, LLC, Thalle Industries. And I guess -- are we hearing these two cases together? No. Okay. So this is for the modification and rule of the special permit previously granted by us.

MR. STEINMETZ: Madam Chair, members of the Board, David Steinmetz, from the Law Firm of Zarin and Steinmetz, here this evening representing Thalle industries.

I'm joined by my client, Glenn Pacchiana, his colleagues, Jeff Maganello and Jesse Lozado. I'm also joined by Darius Chafizadeh, my co-counsel from the Law Firm of Harris Beach, as well as Peter Loyola, our project engineer.

Similar to my last series of comments, Madam Chair and members of the Board, we are here this evening. We have a full presentation that we were ready to make with regard

to the special permit application and I appreciate Mr. Lieberman confirming prior to this evening that the order was reversed so that the special permit would be addressed.

First, we really thought that was the better way to handle this and hopefully obviate any need to even discuss the stop work order. Again, in light of the extensive discussions that we had two weeks ago for three-and-a-half hours, the fact that several of the members of this Board, including some who are not here tonight, visited the property and have been actively engaged in this matter, my client respectfully requests, Madam Chair, members of the Board, that we be afforded a full Board.

This is a really important application. You know that. I don't have to remind you of that.

CHAIRPERSON BUNTING-SMITH: I think they're all important.

MR. STEINMETZ: Well, I appreciate that. And I this is of critical importance to my client. So having said that, both this matter and the successive matter on the stop work order, we would respectfully request to adjourn those to continue the stipulation of compliance that we entered into.

It remains our position that my client has complied with that. We have continued to work cooperatively, safely and in an environmentally-friendly fashion. The Town of

Greenburgh trucks continue to roll on my client's property, as do other municipalities, and we would ask, respectfully, that we have a full Board before -- this is a complicated matter, as you know, and we would like to have a full Board. Am I correct?

MR. PACCHIANA: Yes.

MR. DANKO: Point of order; may the Town respond to that?

CHAIRPERSON BUNTING-SMITH: Yes. I was going to give you that opportunity.

MR. DUQUESNE: Hold on one second, Joe. I'm getting some notes that the web feed is down and the TV feed is down. I want to see if we can rectify that very very quickly.

Okay. Now I understand that the web feed is back. Sorry for that.

MR. DANKO: Thank you. Joseph Danko, Town attorney. Thank you, Madam Chair, Board, for having us here tonight. Apologize if I'm a little disheveled. I travelled from a funeral from Pennsylvania earlier today, but I did want the record to reflect that Town staff cannot consent. I understand you may differ with your opinion, but we cannot consent to the further stay of the stop work order, because based on the monitor we have in place over the last two weeks, we believe that Thalle Industries has not been in

compliance with the agreement that was signed two weeks ago.

And we do have the building inspector ready to present as to why -- which conditions have not been complied with over the last two weeks since our last meeting.

CHAIRPERSON BUNTING-SMITH: This is a novel situation here because --

MR. LIEBERMAN: Before you start: Is the Town's objection to the Case 23-21 or just the 23--22, which is the stop work order?

MR. DANKO: 23-22, which is the stop work order.

MR. STEINMETZ: And I completely appreciate Mr. Lieberman's question, but from the applicant's standpoint, they kind of have to rise and fall together. I'm not exactly sure where this -- we're delighted to have an adjournment on the special permit.

That to me, as I told you two weeks ago, is the more important dispositive application. We all know that we need to work on a new special permit. We've got a lot of work to do. We think we've teed it up nicely, but I think my client deserves a full Board to do that.

In the interim, the other application permits a legal mechanism for the stay of the enforcement of the stop work order. The last two weeks this facility has operated. Tonight is the first time I'm hearing from the Town -- from my friend, the town attorney, that there is some kind of

noncompliance. We know that there had been an issue. I got one email last Friday, late afternoon, from the Deputy Town Attorney, which I responded to immediately. I had no subsequent correspondence on that.

So from my client and our team, we're in compliance. Footnote: For whatever it's worth, you'll be pleased to know that when the Town of Greenburgh rolled a truck of pure asphalt onto our property three days after our three-and-a-half hour deliberations, my client, respectfully, asked them to exit and move on.

So maybe the Town wasn't compliant with the stipulation. I don't know, but I think it's important for you to know since that was an issue that we discussed seriously and extensively, whether it was reality, a test or otherwise, we complied with the stipulation.

CHAIRPERSON BUNTING-SMITH: Could you perhaps, both gentlemen, both you and from the Town, could you go outside and listen to what these concerns are.

MR. STEINMETZ: We would be delighted to.

CHAIRPERSON BUNTING-SMITH: We'll take another case and you can come back in.

MR. STEINMETZ: We're prepared.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. DANKO: And I would like to offer in the alternative as well, if the stay were to remain in place

until the next meeting, perhaps maybe we can comply entirely with the 2002 special permit conditions. I know we made -- you didn't make any decision last time. We put an adjournment in place based on their agreement, but perhaps we can put the hours of operation provision back in place too to comply with the Town codes noise ordinance and to comply with the 2002 special permit. I would suggest that could be another alternative.

CHAIRPERSON BUNTING-SMITH: All right.

MR. STEINMETZ: Why don't we step outside and have a conversation.

CHAIRPERSON BUNTING-SMITH: Right.

MR. STEINMETZ: We -- Mr. Danko and I have worked cooperatively together on numerous matters. We're going to try to do that on this as well.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. DANKO: Thank you.

MR. STEINMETZ: Thank you.

* * * *

Case No. ZBA 23-23: Praveen Elak, 89 Marion Avenue
(P.O. Hartsdale, NY 10530) - Area Variances.

The Applicant is requesting area variances from Section 285-5 of the Zoning Ordinance to reduce the distance from a patio to a side property line from 10 ft. (Required) to 0 ft. (Proposed), and from 285-36G(6) to reduce the distance from a pool to a property line from 15 ft. (Required) to 0 ft. (Proposed) in order to install an in-ground pool and patio on the subject property. The property is located in the R-10 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.290-223-3.

CHAIRPERSON BUNTING-SMITH: Next case is Case 23-23, 89 Marion Avenue, Hartsdale.

MR. PUSHLAR: Yes. This is Dean Pushlar; landscape architect for Praveen Elk.

MR. DUQUESNE: Sir, Can you please spell your name for the record.

MR. PUSHLAR: Sure. First name's Dean, D-E-A-N, last name Pushlar, P-U-S-H-L-A-R. We are requesting an area variance two area variance. One for pool setback from 15 feet to zero feet and a patio setback from three feet to zero feet. And I'll try to share my screen.

This is the existing survey. Can everyone see the screen?

MR. DUQUESNE: Yes, we can.

MR. PUSHLAR: Maybe I'll put a different drawing up. This is the existing survey. It's a corner lot. Healy Ave to the north. On the south is Marion Ave. The house faces Marion Avenue access via driveway to front yard.

The back corner of the property from basically this wall back are steep slopes, full of woods and trees, rock-shell croppings. So really these are some large oak trees and a large maple are tree on the site. So we want a variance for -- to put a pool in this area. I'll pull it up next.

Here's a better view of what we're proposing. Swimming pool here, patio here. The swimming pool is roughly 16 by 34, not a huge pool. Actually, they probably wanted a larger pool, but we reduced it to make it fit within the constraints that we have. As you can see, these are the steep slopes here that are regulated by steep slopes regulations in the town.

The property line is -- once we did the survey, came right through the property. There's an existing fence that runs here and stops here. So the homeowners have maintained this part of the property since he's lived there. There are some existing endlocks and a few larger trees along this Healy Avenue now.

So, again what we're asking for is two variances.

The setback from -- this is the setback line for the pool. So we're asking for a zero-foot setback for that, a patio setback of zero feet as well. The setback for a patio is ten feet.

There is extremely steep slopes. It's a corner lot, so we're really not affecting any neighbors here. There's an existing fence that we'll just rebuild. It will be a solid board fence with some new landscaping.

So our hardships really are: The shape of the lot. The way that the back of the lot kind of comes into a pie shape in the back. Kind of constricts where this property line is. We have have vegetated steep slopes again. There's really not going to be a detrimental affect on the neighborhood or the public welfare. The pool is within the existing rear yard as it currently is. So there's really no effectively difference from what's currently other than having a pool.

One of the neighbors did have a concern about stormwater. Did receive a letter about that. As part of this application as a typical building permit application, we will need to provide a full stormwater management plan that provides infiltration for a 25 year-span. So that is a given. That has to be done in order to make this presentable to the Building Department.

So if anyone had any questions, I'm happy to take

them.

MS. DENKENSOHN: I have two questions. And I'll ask both of them and then you can answer them together. Did I just hear you say that you intend to take down the fence that is on public property and replace it with a new fence on the public property?

And the second one is: Was there any thought put into moving the pool closer to the house where you currently have patio furniture and stuff and closer to the portable spa and so would not be so close to the property line?

MR. PUSHLAR: So the answer to the first question with regard to the fence, so the fence is existing. We will need a fence for the pool enclosure. So we would be replacing that fence. And actually extending it to the corner of the house.

Question number two was: Can we move the pool closer to the garage? There's actually a ten-foot setback for a swimming pool for the structure from the house, I believe.

MS. DENKENSOHN: So your first answer makes me question: Do you have a permit to enclose public land on your private property?

MR. PUSHLAR: So this is a unimproved road. It's listed on -- there's a private road. So this would be -- would fall, I believe, under eminent domain -- not eminent

domain -- but we do not have a permit, no.

MS. DENKENSOHN: Okay. Because you're not building it on your property line. You're building this fence on public property. And you're enclosing it and preventing the public from getting to public land.

MR. PUSHLAR: We're replacing the existing fence in kind.

CHAIRPERSON BUNTING-SMITH: How long has your client owned the property?

MR. PUSHLAR: At least ten years. He is on the call. I'm not sure if he wants him to chyme in. Praveen?

MR. ELAK: Since 2008.

CHAIRPERSON BUNTING-SMITH: And the fence that is there is that -- was that the same exact fence that is still there now?

MR. ELAK: Yes. The fence was in place before we purchased the property and it was -- there were, from what I understand, the prior owner had the fence as well.

CHAIRPERSON BUNTING-SMITH: Did the prior owner give you any indication that that fence, you know, was yours or did you know at that time when you purchased the property that it was not on your property?

MR. ELAK: No, I wasn't aware.

MR. DUQUESNE: Sir, for the record, if you can kindly state your name and spell it, please.

MR. ELAK: This is Praveen Elak, P-R-A-V-E-E-N
E-L-A-K, is my last name.

MS. DENKENSOHN: So when your architect was just speaking he said that the fence was not fully enclosing the property. That was the extension of the fence that you are proposing to do now. That the fence only went to the bend on the longer side or currently only goes to the bend on the longer side.

MR. ELAK: That's correct.

MS. DENKENSOHN: So the enclosure part of it doesn't exist currently?

MR. ELAK: That's correct.

MS. DENKENSOHN: So the public has access to the public land?

MR. ELAK: So right where the yellow line is, that's currently part of the yard that we've been improving and maintaining for more than ten years. The area between the yellow line and the black line.

MS. UEBERLE: Can you share with us where there is an existing fence today? Like, all in yellow, like looks like it's existing.

MS. DENKENSOHN: This part does not exist.

MS. UEBERLE: Just that part.

MS. DENKENSOHN: I know this part does. I don't know about the rest.

MR. PUSHLAR: This is the survey. So this is where the fence starts and it goes back here.

MS. DENKENSOHN: We're not seeing what you're doing. Oh, okay. Try again.

MR. PUSHLAR: So from here to here to here and this is where it stops currently. That's where the existing fence is. We could put the fence here, but as you can see from the pictures -- can you see this picture?

CHAIRPERSON BUNTING-SMITH: Yes.

MR. PUSHLAR: The property line runs, essentially, through these stairs and through the playground equipment.

CHAIRPERSON BUNTING-SMITH: I guess we have to ask the Building Department if they know if there were any permits or any of this that was done before.

MR. ELAK: So we had a house fire in 2014 and the whole house was brought down to the studs and rebuilt and there was a entire building permit application that was put in. And the house was essentially rebuilt in 2014 and we did put a CO in 2015.

MR. DUQUESNE: This portion of Healy Avenue is not a public right of way or public land, if you will. If that were a public right of way, then there would be issues with that fence in that space. There's the prospect that in the future, at some point, one never knows, but it could be proposed to be updated to a town standard road. At which

point, if that were the case, the fence would be in the way of that. If that were the case, the fence would have to come out to accommodate that, but I do believe that what was shown in that photo there is accurate. That, historically, that fence and much of their yard was in that private right of way space.

MS. UEBERLE: Sp who owns that piece of land if it's not a public street?

MR. DUQUESNE: That would be for the applicant to represent through title search or whatever. There are a variety of scenarios. It's commonplace for the property line to go out to the center of an improved street with adjoining owners on each side sort of having, you know, deeded rights to that, I suppose.

MS. DENKENSOHN: In this instance, there seems to be an actual property line. If this is the result of a recent survey that said that is the property line, it would not be the center of the unimproved road; correct?

MR. DUQUESNE: Yeah, I do agree with that. The property line is accurately shown as in the survey. And on this plan, yes.

CHAIRPERSON BUNTING-SMITH: All right. There's some information that I guess is necessary. Is there anyone in the audience that wanted to address this? Come up, please ma'am.

MS. EAKICEWSKI: My name is Barbara Eakicewski. And my husband is the one the wheelchair. I sent an email a couple of days ago explaining my position about this. I don't know the neighbors, but some years ago they were asking for a, you know, a petition to build the porch in the front and there's the neighbors -- we had nothing against you know. That I am against this pool and against this variance. It's a precedent.

You give it to somebody to build something on the property line and then other people will say, it's okay. They did it, so we'll do it. You know, it's a precedent. And I think it's not like building, you know, even a hedge or something. It's permanent.

Also, there's a storm drain that goes from like that corner from the hills that belong to the town, you know, and in front of that property and in front of my property and we get flooded.

There's a problem. We got flooded in three feet, the driveway, the garage, the basement, the huge basement. It was a disaster. We got flooded last year, in July, July 18th. Nobody else got flooded. We got flooded. There's an opening in the -- for the storm drain and that's so far is the only one that the town found. And it's just a geyser coming out and just flooding.

The Town comes once in a while. We had so many

emails, so many times people came in from the Town and they're trying to do something and it's going on for two years. And so far nothing is fixed. So that is on front of that property, my property. We are the victims. My husband is the victim of anything that's coming back there and it's not being fixed. And they don't know how they're going to fix it.

So any kind of -- first of all, I wouldn't want to have a swimming pool touching my property of the neighbor, you know, that's not right. You know, certain rules and there's a reason why there should be like 15-foot distance. And so I wouldn't want that for myself. I wouldn't want anybody to do it either. I.

Am very worried. I am petrified about every time that there's a big rain. In my house we have a pump in the driveway there which is not like automatic. You have to put it on, you know, to set it out because there are four things that you have to do that we bought and it's in the driveway in case, you know, there's a flood. Sometimes we have to go to the doctor or for therapy. My husband is a stroke victim.

And we have this and we have -- so we have tons of issues. We are elderly people. And just thinking about a pool, an in-ground pool, and what the water is going to do or affect it. It's just -- I am just definitely against it.

I'm sorry, but, you know, but they're probably nice people, but I'm, you know, the storm drain is not being addressed -- well, it's being addressed, but nothing's being done so far.

CHAIRPERSON BUNTING-SMITH: How will the addition of the pool affect the storm drain?

MS. EAKICEWSKI: I just don't know. Where is the water going to go? And, you know --

CHAIRPERSON BUNTING-SMITH: Well, it might go into their pool.

MS. EAKICEWSKI: I hope so. And from their pool, you know, because when they -- the pipes are old pipes from the early 50s. And they are being, you know, the house next door, they had a sink hole in the driveway, like a huge sink hole. The pipes are. So the water wasn't going that way.

It was just coming into my -- when the water reached this level, then the rain -- the extra water went into the neighbor and into his basement. It was a disaster, what we had.

And it's still -- the pipes are not being fixed. There is -- so because we got flooded in July, July 18th last year. And, you know, at night we are just the two of us. I have to take care of my husband. And I have to put, you know, check at night if it's raining and check if the driveway is flooded to go running there to put the machine on.

CHAIRPERSON BUNTING-SMITH: I understand.

MS. EAKICEWSKI: It's that --

CHAIRPERSON BUNTING-SMITH: You said something else. You said that you wouldn't want to have a pool; right?

MS. EAKICEWSKI: Touching my property, no. It's not safe.

CHAIRPERSON BUNTING-SMITH: But where is it that this would possibly touch your property?

MS. EAKICEWSKI: No. No. It doesn't touch.

CHAIRPERSON BUNTING-SMITH: That's what I thought.

MS. EAKICEWSKI: No. There are -- there are two houses in between.

CHAIRPERSON BUNTING-SMITH: Okay.

MS. EAKICEWSKI: But there are people that do things that are not right. That maybe --

CHAIRPERSON BUNTING-SMITH: Yeah, but they came here to try to see if they can do it and get our permission. That's what it is.

MS. EAKICEWSKI: But if they do it then somebody else will say, well, they did it, so how about a variance for me? You know, basically.

CHAIRPERSON BUNTING-SMITH: Well, everybody that we see wants a variance.

MS. EAKICEWSKI: Yeah.

CHAIRPERSON BUNTING-SMITH: But that's our job. So we can't complain about that, but what I'm saying is everyone has a right to seek to try to do what they wish to do to their property. They don't always get it, but, you know.

MS. EAKICEWSKI: I am scared about my whole situation.

CHAIRPERSON BUNTING-SMITH: Of course.

MS. EAKICEWSKI: And it's -- it's a bad situation and I don't believe that's going to help.

CHAIRPERSON BUNTING-SMITH: All right.

MS. EAKICEWSKI: If they would agree to make a new line and there's Marion Avenue for the storm drain, another storm drain or something like that.

CHAIRPERSON BUNTING-SMITH: You'll be happy.

MS. EAKICEWSKI: All I wasn't is peace of mind.

CHAIRPERSON BUNTING-SMITH: Okay. Well, we're not in a position to make a decision on this this evening because, as you heard, so many issues have come up with regard to the line and where the fence is going, et cetera.

MS. EAKICEWSKI: About that fence -- I don't know about the fence. There was -- we've lived there since 1965.

CHAIRPERSON BUNTING-SMITH: Who put the fence up?

MS. EAKICEWSKI: Not '65. Sorry. '76. Sorry.

There was some fence, there was some horses. My kids are now, you know, because it's like next door. You know, it's at the end of our street. So that's the third house.

CHAIRPERSON BUNTING-SMITH: And it's been there all that time?

MS. EAKICEWSKI: Yes.

CHAIRPERSON BUNTING-SMITH: No termites there.

MS. EAKICEWSKI: So we live there -- I mean, there are problems with flooding.

CHAIRPERSON BUNTING-SMITH: No, I understand.

MS. EAKICEWSKI: We do and it's not being fixed and this is --

CHAIRPERSON BUNTING-SMITH: You should present this at the Town Board. We're only the Zoning Board. So we can't fix that. Okay.

MS. EAKICEWSKI: I'm just --

CHAIRPERSON BUNTING-SMITH: I know.

MS. EAKICEWSKI: -- making you aware.

CHAIRPERSON BUNTING-SMITH: But we have other cases we have to do tonight and we're not going to finish it tonight.

MS. EAKICEWSKI: But I don't know. I send that email.

CHAIRPERSON BUNTING-SMITH: You're welcome to come back the next time.

MS. EAKICEWSKI: Okay.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. EAKICEWSKI: Thank you.

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Case No. ZBA 23-24: Joe Guerrerio, 11 Thomas Street
(P.O. Scarsdale, NY 10583) - Area Variances.

The Applicant is requesting area variances from Section 285-12B(3)(d) of the Zoning Ordinance to increase the maximum impervious surface coverage from 29% (permitted) to 31.3% (proposed); and from Section 285-36(G)(3) to change the location of an accessory pool from the rear yard (required) to a side yard (proposed), in order to install an in ground pool, patio and modify a driveway on the subject property. The property is located in the R-20 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.350-252-12.

CHAIRPERSON BUNTING-SMITH: And the next case on tonight's agenda is Case 23-24, 11 Thomas street. And guess what we're dealing with on this.

MR. DUQUESNE: I'll project the plans.

MR. SANOK: Thank you very much.

Good evening. My name is James Sonak, with Sonak Design Group, spelled S, as in, Sam, A-N, as in Nancy, O-K. I'm here representing Joe Guerrerio of 11 Thomas Street.

The Guerrerio's wish to put in a swimming pool in their rear yard, but, unfortunately, due to the shape of the property it's very restrictive to put a swimming pool in the backyard.

So we're required to apply for two variances, both

area variances, one to place the pool partially in the side yard, but mostly in the rear yard and respecting the pool setbacks on both sides, 15 foot from the side yard setback and about 25 feet from the rear yard.

Currently the property is surrounded by evergreen trees that are mature and completely streams for swimming pools there. The second variance that we are looking for is for coverage. Because there's a small two-foot grade change right in here, we're required to put a little seat wall and we wanted to allow enough room for some lounge chairs on that side. And I suppose that. That's what we're looking for.

CHAIRPERSON BUNTING-SMITH: So are you saying you can't turn it the other way because of the driveway or because of the house or is it the setback?

MR. SONAK: Well, we could twist and turn it, but currently we have our infiltration system in the front lawn here, which the infiltrator is buried under the ground. And this seemed to be the best configuration in a relationship to the -- to the backyard that they have.

CHAIRPERSON BUNTING-SMITH: Anyone here have any comments on this? Do you have any comments from the neighbors?

MR. SONAK: No, we do not.

MS. DENKENSOHN: Can I just ask what the yellow

meant on this one? You have a lot of stuff in yellow.

MR. SONAK: That was probably -- oh, that's our area of disturbance.

MR. DUQUESNE: There is one resident -- there's one person here that wishes to speak.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. GROSS: Hello. How's it going, everyone? Jeremy Gross, J-E-R-E-M-Y G-R-O-S-S. I'm the neighbor at 15 Thomas. I didn't have the survey on the screen there, but I'm the house that's the flag lot that surrounds it. So my driveway wraps around the 11 Thomas. The pool is going to be about 35, 40 feet right in front of my house.

I'm not objecting to the pool. I just had some concerns that I wanted to raise. We just bought the house probably about a year-and-a-half ago. It's my understanding that before we moved in there was some issues with the house with the basement getting flooded during a storm. The Hurricane Ida that had come through fell brought some rains up here that I know a lot of Westchester suffered, so there's a couple one of elements.

One is to just to ensure that when all is said and done there's enough, you know, grade, storm runoff, whatever it be, such that the water, you know, this pool and the 11 Thomas property is really between me and the slope. So just to ensure that when everything is all said and done that

there's enough pitch, enough grade, that the water doesn't accumulate between our houses and thus push between me and the higher sloping wall.

The other element, you know, I have two small kids, my neighbor, I know, has three. My kids love the town pool, they love pools. There's no question that they'll run to the pool. We do have mature trees in between there. The only issue that we have with respect to privacy, both visually and with sound, is those trees -- I guess the fence was put in after.

So the foliage that faces my house is sort of baron up to the six-foot height of the trees and so we can really see all the way through the property. We can see all the way through across the Thomas Street.

So if there's anything that can be done with the visual so that, one, my kids don't be tempted to run, you know, up and around the house and into the pool, which I'm sure they're going to want to do.

And then the second is with respect to sound and light at night. You can have a pool, I'm sure you're going to have fun. You know, maybe we'll be invited some day, I'm not objecting to it, but we just want to make sure that we can sleep.

Our bedroom is right outside of there. So we just, you know, let them have all the benefits of a pool. We just

want to make sure that any undue sound and all those things is just managed accordingly.

CHAIRPERSON BUNTING-SMITH: So looking at -- you're on the rear of their property?

MR. GROSS: Exactly. So the houses are staggered side.

CHAIRPERSON BUNTING-SMITH: Are you directly behind their house, are you tilted to one side or the other?

MR. GROSS: So I'm the red house in that picture. There's one picture of it from sort of closer to the street as opposed to where mine is. So the houses are staggered to the left and to the right.

CHAIRPERSON BUNTING-SMITH: So you really would be right behind the pool? Or right in front of the pool.

MR. GROSS: Yeah. It's probably closer to my house than his.

MS. DENKENSOHN: His driveway is right on the property line.

CHAIRPERSON BUNTING-SMITH: Yeah. I mean, looking at this plan that we have in front of us, it appears that there are a lot of trees going up. I guess we'd have to ask the -- I'm trying to look. Does anybody see what the trees are and how tall they are, anything?

MR. SONAK: Most of those are existing evergreen trees.

CHAIRPERSON BUNTING-SMITH: Come to the mic, please.

MR. SONAK: Almost all of those evergreen trees are existing. They're arborvitaes, so they're evergreen. And the proposed planting on the planting plan shows a series of Dogwoods and other kind of shrub planting, but we would be happy to add more planting to cover up a hundred percent any of the views back into the property and looking at the pool.

And they would have to be lower story trees because they're -- the canopies are so high and he's seeing underneath the trees. So it'd be easier for us to put evergreen shrubbery.

And as for the drainage, it is all downhill and there's already been a review by engineering and approved. So we conformed with the drainage regulations. And nothing is directed towards any of the neighboring properties, only the front lawn.

CHAIRPERSON BUNTING-SMITH: You said something about a two-foot variance?

MR. SONAK: Correct. Yeah. The grade actually pitches up a little bit towards the house behind.

CHAIRPERSON BUNTING-SMITH: His house?

MR. SONAK: The neighbor's. Yes. His house.

CHAIRPERSON BUNTING-SMITH: Okay. So water is not flowing uphill.

MR. SONAK: Yeah. It's not. And what we're doing is creating a small seat wall just to compensate for the grade and preserve all that existing vegetation.

CHAIRPERSON BUNTING-SMITH: Okay. All right. If you could -- I mean, just because they're Evergreens doesn't mean that they provide, you know, total coverage.

And it sounds as though you're saying they want to keep those trees, but they want to put something in below them, which may not be --

MS. KNECHT: What kind of trees exist there now?

MR. SONAK: Right now they're arborvitae trees all along that entire back row. If you take a look at the screen along that back property line, those kind of pointy trees are all arborvitae. And it's a fairly solid mass and I do understand there are some of the bottom branches that you can see under. We'll just fill those in with more evergreen shrubs to the satisfaction of the neighbor.

CHAIRPERSON BUNTING-SMITH: Oh.

MR. SONAK: We'll work with him. Absolutely.

CHAIRPERSON BUNTING-SMITH: Did you hear what he said?

MR. GROSS: Yeah. Yeah.

CHAIRPERSON BUNTING-SMITH: Can't do better than that. So that would be a condition in here.

MR. SONAK: Absolutely.

CHAIRPERSON BUNTING-SMITH: So you guys can figure it out since he has no other. And would you be -- do you have the same on the -- facing the house on the right side, do you have the same --

MR. SONAK: Issue.

CHAIRPERSON BUNTING-SMITH: Type. Yeah. Issue.

MR. SONAK: We have the same kind of environment with existing evergreen trees all along that side and fortunately it's his driveway that runs up along that property line.

CHAIRPERSON BUNTING-SMITH: I understand that, but then you have a house that's fairly close to it also. I only mention it because pools do generate noise and --

MR. SONAK: The pictures that I've included in the packet I tried to take some pictures of those two property lines so you can see what the Evergreens look like.

CHAIRPERSON BUNTING-SMITH: We have a neighbor here who's going to help you get this corrected so that it covers his sight and any other sight that might conflict from the house that's on the property.

MR. SONAK: Okay.

CHAIRPERSON BUNTING-SMITH: From their yard also.

MR. GROSS: Just one more question.

CHAIRPERSON BUNTING-SMITH: Yes. Go ahead.

MR. GROSS: I do work from home and I don't know

what's involved with construction or when the hours are, but just --

CHAIRPERSON BUNTING-SMITH: That's up to the Town.

MR. GROSS: That's up to -- okay. Perfect.

CHAIRPERSON BUNTING-SMITH: Yeah. You can find that out.

MR. GROSS: Fantastic. Thank you.

MR. GUERRERIO: Joseph Guerrerio, the homeowner. I just want to add one note, my neighbor, I know him pretty well now. Our kids go to school together. I have a construction business. I'm out 4:30, 5:00 in the morning. So we're not up until 9, 10:00 at night. We're in bed 8:30, 9:00 latest. I have three kids, 5, 3 and 2. They better be in bed by 8:00 or that's a problem.

As far as safety; our house is like on constant lockdown. We have a full fence. We're all locked in, me and my wife have the keys. We keep the gate locked all the time, so nobody can get back there.

We're very, very adamant on that. I had some situations in the past in my previous home where we were robbed, so we take security very serious when it comes to keeping the house locked and especially with the children and stuff so --

CHAIRPERSON BUNTING-SMITH: Not that we're requiring it, but given how boys are, would you consider

having an alarm on the pool?

MR. GUERRERIO: Yeah. I actually spoke to the pool contractor about that. They said they can put that in.

MR. SONAK: There's also an automatic cover on the pool which typically stays closed when they're not used, but, yeah, we can put a pool alarm on that as a flotation device if something falls in it will trigger it.

CHAIRPERSON BUNTING-SMITH: Yeah.

MR. GUERRERIO: Yea. And he's absolutely invited over any time. He know that, but that's about it. Thank you very much.

CHAIRPERSON BUNTING-SMITH: Okay. Any comments? All right. So you guys can get together and see what you can do there.

MR. SONAK: We shall. Thank you very much for your consideration.

CHAIRPERSON BUNTING-SMITH: You're welcome.

MR. SONAK: Have a great night.

CHAIRPERSON BUNTING-SMITH: You too.

MR. DUQUESNE: Looks like there's another speaker.

CHAIRPERSON BUNTING-SMITH: Oh. Come up.

MS. BELLINO: It's not regarding this. I'm sorry, Ms. Bunting, did I miss the opportunity to speak about Thalle? I flew here as quickly as I could.

CHAIRPERSON BUNTING-SMITH: We haven't addressed

them yet. They're ruminating outside. If you want to go out there you can join them.

MS. BELLINO: No. I would rather just direct my comments to the Board.

CHAIRPERSON BUNTING-SMITH: The problem that we face is that we are going to not have a full compliment, and, therefore, they want us to -- they want to adjourn. So the -- however, because there's a stop work order, the Town is not consenting to continue to this case. So, therefore, we want to let them try to see if they can work something out tonight.

MS. BELLINO: So public comments aren't welcome just to perhaps add to your --

CHAIRPERSON BUNTING-SMITH: Not tonight.

MS. BELLINO: Oh.

CHAIRPERSON BUNTING-SMITH: Because the applicant has asked for an adjournment.

MS. BELLINO: Okay.

CHAIRPERSON BUNTING-SMITH: And he's entitled to it.

MS. BELLINO: I see. Okay. Thank you.

CHAIRPERSON BUNTING-SMITH: You're welcome.

THE REPORTER: State your name.

MS. BELLINO: Tina Bellino.

THE REPORTER: Spell the last name.

MS. BELLINO: B-E-L-L-I-N-O.

MR. DUQUESNE: Ma'am, if you have something in writing and you want to submit it, I'll take it.

MS. BELLINO: I really wanted to read it.

MR. DUQUESNE: Okay.

MS. BELLINO: It would take probably --

CHAIRPERSON BUNTING-SMITH: It doesn't matter. You can't do it tonight.

MS. BELLINO: Okay.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. BELLINO: Thank you for your time.

CHAIRPERSON BUNTING-SMITH: All right. There were a lot of people here, though. We did get to hear something. And if you read the minutes, you'll see.

MS. BELLINO: Thank you.

CHAIRPERSON BUNTING-SMITH: There was a lot.

MS. BELLINO: Thank you so much.

CHAIRPERSON BUNTING-SMITH: Thank you.

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Case No. ZBA 23-25: TH Tarrytown LLC c/o HEI Hotels & Resorts A.K.A. Marriott, 670 White Plains Road (P.O. Tarrytown, NY 10591) - Sign Variance.

The Applicant is requesting a sign variance from Section 240-3C(9) from the Code of the Town of Greenburgh, Sign and Illumination Law to install a second wall business sign not fronting a side street on a non-corner lot (proposed); where, unless facing a side street, zero are permitted. The property is located in the OB - Office Business District and is designated on the Town Tax Map as parcel ID: 7.240-102-1.SE.

CHAIRPERSON BUNTING-SMITH: All right. Next is 23-25, TH Tarrytown LLC, and that's A.K.A. Marriott. Do we have a Marriott in the room?

MR. HOLGUIN: Good evening. My name is Yonathan Holguim. It's, Y-O-N-A-T-H-A-N H-O-L-G-U-I-N. I am here for sign variance for Marriott Hotel. We want to remove an existing sign that is facing the I-287 Highway to install a new sign that is with a new logo for Marriott.

The existing sign been there since 1981. Where the building was built on 1981. So we basically -- that's what we are here tonight. So if you looking at the picture, so that the existing sign, we basically wants to take that sign down and put a new sign.

I know the hotel they are doing a lot of

remodelation on it. So the sign is going to be one of the good things that the hotel wants to have up there.

So if you look at the difference, the new sign is going to be a little more bigger with a new logo. It's basically going say the same, Marriott. So --

CHAIRPERSON BUNTING-SMITH: So you're replacing a sign that you have already?

MR. HOLGUIN: That is correct.

CHAIRPERSON BUNTING-SMITH: But that's a second sign that you have; correct?

MR. HOLGUIN: Yes.

CHAIRPERSON BUNTING-SMITH: So that's the issue. All right. And could you, I guess give us a little more information about why the sign has to be or should be that big because everyone seems to be able to find the Marriott.

MR. HOLGUIN: Okay. So can you -- can you repeat the question again?

CHAIRPERSON BUNTING-SMITH: Yes. I said that you mentioned that it's a bigger sign; correct?

MR. HOLGUIN: Yes.

CHAIRPERSON BUNTING-SMITH: Than what was there. And I said: What purpose did you have for making it a bigger sign since it's pretty easy to find the Marriott?

MR. HOLGUIN: Okay. The reason is because the hotel is going to have a better view so the drivers that are

passing on the highway, they can see the hotel easier.

MS. DENKENSOHN: Maybe I -- I got the numbers.

CHAIRPERSON BUNTING-SMITH: Okay.

MS. DENKENSOHN: Okay. The existing sign is -- the existing sign is two-and-a-half feet high by 14-feet-long. The new sign is four-feet high by 18-and-a-half feet long.

The question that I have is -- and I realize it's longer because the M, which used to be the logo, and now you're adding the letter M. And there's more spacing between the letters, it appears.

One of my questions is: Is there a lighting difference on this? How is the current sign lit versus how will the new one be lit?

MR. HOLGUIN: Okay. So the current sign is face-LED and the new sign is going the same. It's face-LED. The sign is flush mounted to the wall. It's basically the LED lights inside and the face are like Plexiglass like --

MS. DENKENSOHN: So the letters themselves are lit up?

MR. HOLGUIN: Yes.

MS. DENKENSOHN: And is that currently and proposed? Is it going from incandescent to LED? Is there -- is there -- will there be a brightness difference, will there be more lumens?

MR. HOLGUIN: No. Actually it's not going to be as

bright as we have now because the face is black color. So it's not going to be brighter of what we have now.

MS. DENKENSOHN: So the letters, if it's black, the letters won't be will lit? It will be -- it will be almost light the wall behind it?

MR. HOLGUIN: No.

MS. DENKENSOHN: Then I don't understand.

MR. HOLGUIN: The letters are flush mounted. It's going to be face-LED. The light is going to be in the front. It's black color because of the Marriott logo. That face actually is white plexi-acrylic with a perforated vinyl, black vinyl on it. So that is more perforation. That's why you can see the lighting when it's on nighttime that's going to be lighting up.

MS. DENKENSOHN: And currently how is it lit if it's flush mounted?

MR. HOLGUIN: Yeah. It's flush mounted to the building.

MS. DENKENSOHN: And how is it lit? How are the red letters lit?

MR. HOLGUIN: A little bit because that's red translucent vinyl. The lit -- the lights come pass through on the face. Same thing.

MS. KNECHT: The size of the sign, the dimension, is that in conformance with our code? In other words, the

size of the sign is not an issue. It's just the number of signs. So if we allowed two signs, this sign size, would be permitted.

MR. HOLGUIN: Yes. It will be permitted. We already got approval for one of the sign that actually the E02. It's the same size. The reason we got denied for this sign is because the is facing the I-287 Highway instead of a town road or a street.

MS. KNECHT: Thank you.

MR. HOLGUIN: You're welcome.

CHAIRPERSON BUNTING-SMITH: Anyone out there have anything? Okay. Sure. You're up.

MR. McANENEY: Thank you. Good evening. I'm Terry McAneney. Terry, T-E-R-R-Y, last name, McAneney, M-C-A-N-E-N-E-Y. And I'm currently the general manager of the Westchester Marriott.

So, first of all, thank you. We are going under a massive renovation of the property from front of the hotel all the way to all the rooms and everything that we're doing. This is just one of our improvement plans.

And really what this sign is is taking the existing sign, that Marriott, back in 1981, that was the logo that Marriott did and the brand standard that they had. We're taking that sign off and we're adding back, as you might be a Bonvoy member and notice that the Marriott changes their

logos, this is the exact sign that's going back up.

So we're not adding a sign and the one in the front was approved. We're just taking the old one from 1981, taking that off and putting the new logo that Mr. Marriott and the family are now going by.

So it's really just a -- making it more of a modern look and that's really what we're doing. We're not adding a sign so. Okay. Yep?

MS. DENKENSOHN: I understand why the length of it is longer because the M is now being added to the letters.

MR. McANENEY: Yep. Yep.

MS. DENKENSOHN: What is the need to make each letter -- the height go from two-and-a-half to four inches?

MR. McANENEY: I can -- Mark, I think -- Mark Bohlman is our project manager, can answer a little bit on that. I think it's more of the Marriott back in 1981, that was the logo and now it's a little bit wider and bigger for probably brand standards.

So I can attest to that, but I don't know the exact reason, probably because of the size. And this, if you know our hotel, this is going to be on the 11th story locking over to 281 which is there now.

So I probably can turn to Mark a little bit on that question probably just because of the size of the building itself.

MR. BOHLMAN: Hi. I'm Mark Bohlman, M-A-R-K B-O-H-L-M-A-N. I'm the project manager for AGI Hotels who operates the property with Terry, running the construction.

The sign dimensions are a function of a brand standard and we're complying to that. And the requirement is that we fit within what the Town requires as a maximum size sign so it -- the area fits the bylaw for sign size, but it's stretched a little bit just because of the proportions of the new modern logo. The letters are a little bit further apart. That's the new modern logo by Marriott.

MS. MOSLEY: Do you have a picture of how the sign is going to look when it's lit up at night?

MR. HOLGUIN: Yes, we do have. We do have on the set of drawings that I submitted. You can see it's on the page number five. You will see the dimension of the sign and you will see A night view on the right-side corner on the bottom of the sheet.

MS. DENKENSOHN: I guess this is it?

MR. HOLGUIN: That is correct. On the right side you see the white letters and the red logo, that's how it's going to look at nighttime, but it's on a special perforated black vinyl that let the light pass through at night. And at the daytime, it's going to look black letters. And you can see under the description on the blue box is says

face-LED, LED remove flush channel. You will see the side view of the letters that is flush mounted to the wall.

All the electrical components are going to be removed. So all outside going to be low voltage. It's going to pass through the walls with conduits and it's going to be all connected to a power supply boxes with this kind of switch for service switch or for future services, replacements of the electrical components.

MR. BOHLMAN: You know -- Mark Bohlman again. It's kind of counterintuitive. During the day, the sign looks black, but, in fact, those black letters are perforated. At night the light shines right through.

I know it's hard to get your head around, but that's how these things work. It's not a halo-type sign. It's a direct lit letter which is just called a channel letter sign.

MS. UEBERLE: So the previous sign has been there since 1981 I think you said. Have you changed it since then and was a variance required in 1981 for a second sign? Does anyone know?

CHAIRPERSON BUNTING-SMITH: I believe they had one, but once they take down --

MS. UEBERLE: Yeah, I know, but --

MR. McANENEY: I know the brand standard has changed multiple times, but the sign I believe --

MS. UEBERLE: Yeah. No. I'm thinking of the Town code like --

MR. DUQUESNE: I would have to defer to the Building Department. I'm not aware if it was just grandfathered.

MS. UEBERLE: So they don't have a variance.

MR. DUQUESNE: I would assume, no, because, otherwise they --

MS. UEBERLE: Okay.

MR. BOHLMAN: When Frank Morabito looked at it, he couldn't find a variance in the record. Frank told us that.

MS. DENKENSOHN: And you always had two signs/.

MR. BOHLMAN: Always had two signs. Which is like a Marriott brand standard. In the Marriott standards they want a sign that faces in most cities the most highly travelled path, which is like a freeway or major highway. That's their primary iconic sign.

CHAIRPERSON BUNTING-SMITH: Any other questions?
Yes. Mr. Bodin, yes.

MR. BODIN: My name is Murray Bodin. This is the fourth sign hearing that I have been to. The Tesla, Lukoil, the one that you see from the thruway.

Your responsibilities are not the responsibilities that you had a year ago. You now have to deal with a world that has changed radically. Automobile agencies are on

strike indicating how much the world has changed and the job that you signed up for to be here has gotten incredibly more difficult. I don't know if you really want to deal with the chaos that's going on in the world today.

I'm an artist, I'm a sculptor. I am aware of the size and shape and form. I advocate for readability in traffic signs because people are distracted when the light turns green. They don't go forward because and when they look up, the information has to be clear. The signs that they have proposed, the shape of them, are easily readable.

They're not outlandish. They have updated their logo to meet today's readability standards. They have not gone overboard to design something that's outlandish.

So I would support this sign, where I did oppose the big one that's on the the hill that you can see for miles about some medical facility that was purely advertising.

This is to let you know that a quality hotel is at that location. They've upgraded their signage for readability. They have not overdone it and I support this particular one, where I opposed the one that's on the hill that you can see from the other side of the river.

Your job has become incredibly difficult. And I recognize that you're enforcing laws that were written from an age that no longer exists. I watched the MTA Board

meeting and committee meetings the other day. And they are creatively looking for ways to serve the public in ways that have not been served before. They want to create value without overdoing it.

Your challenge today is to create a reasonable environment for us to live in. This is not the environment of ten years ago or 50 years ago. When they were talking about the wood before, I wanted to add that my family was in the laundry/cleaning business for a hundred years, four generations. My son, who is 60, is the last. He's going out. The next generation is into different things.

So when they say our business has lost, the Bodin Family, after almost a hundred years is out of their business. Just to indicate how it's changed. Tradition, what was tradition for years and years isn't valid anymore.

Today we have to look at each one individually and say is this logical and is this in the best interest of the public? And I wish you well. You've got a very hard job to do. And I don't envy you, but I will support you when I can.

And I thank you for your time and for your listening to me. Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. DENKENSOHN: This is for the hotel side. Has -- LED lights can be as bright as you want them to be.

There is a great debate on preserving the night sky. Is there -- and so my question is: What is the philosophy of the setting of the brightness of the LED light which can definitely be many times brighter than what's there right now. And what will it be set for?

MR. BOHLMAN: Let me just take the first part.

CHAIRPERSON BUNTING-SMITH: Well, let me ask you before you do that. The light that you have on the front, is it operating now?

MR. BOHLMAN: Yes, it is.

CHAIRPERSON BUNTING-SMITH: So we could actually see it?

MR. BOHLMAN: Yes.

CHAIRPERSON BUNTING-SMITH: Okay. Go ahead.

MR. BOHLMAN: Yeah. I'm an astronomer. Part-time astronomer. And I was chairman of my Light Pollution Abatement Committee. And I hate LED lights, generally. The rule with light pollution, if it goes upwards, it affects looking at the stars.

And with the signs, Marriott's been very understanding about that. New parking lot lights have to shine, the lumens have to shine downwards. And they do not want to overdue any of their building letterset signs or monuments. It's one of their brand standards.

MR. HOLGUIN: And about the LED brightness, what we

use for that type of brightness we use a dimmer that we can outlet to the power supply for the electrical components. We use 3500 KLED brightness. That if we added the dimmer, we can even go to 5,000 K brightness or we can go lower than that 3500 to 2,000 brightness of LED. So we can always adjust it with the dimmer as bright as you can approve us to go.

CHAIRPERSON BUNTING-SMITH: So you would make putting a dimmer on it as a condition so if that if there were any complaints it could be adjusted.

MR. HOLGUIN: That is correct, yes. Can put as low brightness as you guys approve us to do.

CHAIRPERSON BUNTING-SMITH: Okay. Any other questions? Anywhere? If anybody is out there, Garrett?

MR. DUQUESNE: No.

CHAIRPERSON BUNTING-SMITH: Okay. Thank you.

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Case No. ZBA 23-26: Marcia Keizs, 15 Beechwood Road
(P.O. Hartsdale, NY 10530) - Area Variances.

The Applicant is requesting area variances from Section 285-39D(2)(a) of the Zoning Ordinance to increase the maximum gross floor area from 2,625 sq. Ft. (Permitted) to 2,824 sq. Ft. (Proposed); from Section 285-5 to reduce the distance from a front patio to a side property line from 10 ft (required) to 3.2 ft (proposed); from Section 285-5 to reduce the distance from a front patio to a side patio from 10 ft (required) to 5.05 ft (proposed); and from Section 285-5 to reduce the distance from a side patio to a side property line from 10 ft (required) to 8 ft (proposed) in order to legalize and unheated sunroom, two patios and a deck on the subject property. The property is located in the R-7.5 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.200-147-4.

CHAIRPERSON BUNTING-SMITH: And the last case we have, other than Thalle, is Marcia Keizs. That's Case 23-26.

MS. KEIZS: Good evening.

CHAIRPERSON BUNTING-SMITH: Good evening.

MS. KEIZS: Madam Chair and the Board, thank you very much for the work you do. And thank you for the opportunity to present our request before the Town Board -- town Zoning Board.

I have obviously sat sat here this evening and heard your thoughtful conversation and I'm sure that will apply to my case as well.

I am Marcia Keizs, it's, M-A-R-C-I-A, last name is K-E-I-Z-S. And the property in question in which we request some variances is a property I inherited at 15 Beechwood Road in Hartsdale from my sister when we died last year, July 7th, 2022, after a very brief illness. She had lived in that home for some 20 or so years. I too am a Town resident.

I would like to introduce Jonathan Hodosh and Audrey Lipicino of Hodosh Associates who will present the variances and will also take questions and answer your questions. Thank you so much, again.

MR. HODOSH: Hi. My name is Jonathan Hodosh, H-O-D-O-S-H, George Hodosh and Associates in New City. Basically, this is kind of an interesting application in that we're looking to legalize structures that were built circa 2015, when my client inherited the property, she decided to put it on the market. At that time she was told that there were addition -- there was an addition built without permits.

So that's what we started to try to legalize. So that addition was a deck in the back of the house of the upper level of the high-raised ranch and it was enclosed

with a three season room below. Subsequently, during the course of getting our approvals, out steep slope and stormwater, we discovered also that there were some patios on the property that had been to be addressed because of the setback property lines.

Those patios are flagstone. They are flat on grade. So they're virtually invisible unless you're walking on them. And this is a slight retaining wall that's about knee-high in the front just dropping the grade down to the patio so they have a little bit of a flat patio space.

So there's been no change to the property since around 2005. We're just looking to legalize what's there. The only work we're proposing is to replace the stairway, because the stairway doesn't meet current code for an exterior deck. So we want to put a new safer stairway in with close risers and the proper rise and run.

The property is heavily wooded. If you look at the aerial view that we provided you can see it's mostly trees. The houses on the left and right of this house, you cannot really see into the backyard from the street. You cannot see these additions. And you also cannot really see the patios from the street.

You see, the view on the top shows the house in the center and the large amount of trees surrounding it, really masking the backyard. Interestingly, the deck would not

require variances. The fact that they closed in underneath it, that has to do with the floor area ratio. So visually when you look at the house, if you're seeing the deck and the railing, you would have seen that without any variance. It would have just been a simple building permit. It's just the fact that it was closed in underneath that raised the variance situation. That.

And as you can see, the patios are flagstone. You will see it on the side views. Oh, I'm sorry. The patios are are just flagstone, set in stone dust. If you scroll down one more, please, you see the little retaining wall. Once again, that was just to provide a little seating area on grade. And it's really invisible from the street. The higher side is towards the street.

So when you look at it, you don't even see the wall. It's only about knee-high. If you look at the little bench that's there, you see it's only about seat-high, which is about 18 inches.

So there's really no changed produced in the neighborhood because it's been that way four almost 20 and virtually invisible to the neighbors. There's no increase in surfaces. It's just a three-season room. It doesn't increase the occupancy of the house.

It doesn't change any physical or environmental conditions and it is not self-created as my client inherited

the house as is.

So really it's a pretty straight forward I think issue and that we're just trying to legalize what's always been there. We tried to provide photographs to illustrate clearly how invisible the additions are.

CHAIRPERSON BUNTING-SMITH: What you showed us with the patio that curves with the chair, you describe it as a stone patio, but it looks like concrete from the look at it.

MR. HODOSH: It's flagstone. There's a photograph that shows it a little clearer. I have some blowups I can show you.

CHAIRPERSON BUNTING-SMITH: What is it that increased the gross floor area?

MR. HODOSH: The fact that the room underneath the deck was closed in. As soon as they closed it in, that became a roof.

CHAIRPERSON BUNTING-SMITH: So other than that it had been?

MR. HODOSH: It had been just a deck.

MR. DUQUESNE: Sir, if you could go back to the podium so the TV picks it up better.

MR. HODOSH: Oh, sure.

MR. DUQUESNE: Thank you.

MR. HODOSH: If it had just been an exterior deck there would have been no increase in floor area ratio. The

fact that they closed it in --

CHAIRPERSON BUNTING-SMITH: No. I meant would they be in compliance with the code if it had not been for that?

MR. HODOSH: Yeah.

CHAIRPERSON BUNTING-SMITH: For that room bring --

MR. HODOSH: Except for the fact that it was built without a permit.

CHAIRPERSON BUNTING-SMITH: Okay. I had a question, but now I forgot what it was. Anyone else want to ask some questions?

MS. UEBERLE: I just have one. Is there an entrance from the house to the sun room?

MR. HODOSH: Yes. Yeah, there's a sliding door inside. And it was an existing sliding door.

CHAIRPERSON BUNTING-SMITH: A lot of patios. And even the one in fact is a paver patio.

MR. HODOSH: Yeah. I think the only concrete is the apron around the sun room, but we're under on coverage. It's just the adjacency to the property lines. We're well under our coverage.

CHAIRPERSON BUNTING-SMITH: Yep. I mean, the three feet from the line so that's stone patio.

MR. HODOSH: It is.

CHAIRPERSON BUNTING-SMITH: And if it's pavers.

MR. HODOSH: Part of it is the fact that the street

is on a radius, but once again, it was just done to create a little flat area to be able to walk around the house. And interestingly, if you look at how we depict the stone walkway, if you look at the eight feet that was showed to the patio, if you consider the walkway a walkway and the patio a patio, it's actually ten feet to the patio.

And we had discussions with the Building Department and their final determination was that that was all patio and that's why we showed the eight feet. But if you consider, if that patio weren't there, that would be a walkway and it would be -- it wouldn't count for the setback.

I mean, I'm just saying it's a matter of semantics. And the only reason I bring it up is that there was some back and forth. We actually went back and forth about three times trying to suss out what was and wasn't the variance.

CHAIRPERSON BUNTING-SMITH: All right. Anyone else on this matter? Okay. All right. Thank you.

MS. ALLEN: Good evening. My name is Carol Allen. I am neighbor of the house. I live at number 19 Beechwood Road. There's a lot of discussion about whether there's a patio or not.

As someone who lives on this block I would say there's a walkway around to the back of the house and there was a flattened area where a bench has been placed. It's

not really a patio. I'm surprised that it would be considered as such.

I can actually see into the backyard there and I did not have any idea that there was a room underneath that deck. It is completely invisible to anybody in the neighborhood.

We all like to walk around out houses. And as a matter of safety, it's a very good thing that those flag staffs are there so that one is one's not likely to fall when they walk around the house. Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you. Anyone else? Okay. All right.

MR. HODOSH: Thank you very much.

CHAIRPERSON BUNTING-SMITH: We will take it under advisement and deliberate.

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Case No. ZBA 23-21: EDC 7 LLC / Thalle Industries, Inc., 50 Warehouse Lane South (aka 7 Warehouse Lane (P.O. Elmsford, NY 10523) - Special Permit Modification and Renewal.

For the modification and renewal of a special permit previously granted by the ZBA on April 12, 2002 (ZBA Case 01-35) in order to resume and expand its rock crushing and aggregate reclamation facility. The property is located in the GI - General Industrial District and is designated on the Town Tax Map as parcel ID: 7.180-52-20.SE.

Case No. ZBA 23-22: EDC 7 LLC / Thalle Industries, Inc., 50 Warehouse Lane South, [A.K.A. 7 Warehouse Lane] (P.O. Elmsford, N.Y.) - Appeal of Building Inspector Determination.

The Applicant is appealing from the issuance by the Building Inspector of: (1) a Notice of Non-Renewal of ZBA Special Permit 01-35; and (2) a Stop Work Order for Thalle Industries' operations at its Thalle "Virtual Quarry." The property is located in the GI - General Industrial District and is designated on the Town Tax Map as parcel ID: 7.180-52-20.SE

CHAIRPERSON BUNTING-SMITH: Okay. So, where are we with Thalle?

MR. LIEBERMAN: Well, call it.

CHAIRPERSON BUNTING-SMITH: Yes. Let's have 23-21

23-22.

MR. STEINMETZ: Mr. Danko I think was stepping out to the rest room. So he should be back in here, but I think we have reached an understanding, Madam Chair, members of the Board.

My client is prepared to continue to abide by the terms of the stipulation with one additional modification and that is that there would be no processing of any kind until 7:30 a.m. on any day of the week.

That would make that term consistent with the 2002 special use permit. That was a specific request of the town attorney and the Building Department. I'm -- oh, Joe's here. I was kind of just stalling until you got here.

MR. DANKO: Yes. So respectfully we wouldn't -- I guess it's two issues. The Town does not have any issue with the adjournment on the special permit matter.

I would say, on the stop work order matter, we did have a productive meeting over the past hour or so in the Lee F. Jackson room and we had discussions and I heard that added provision that Thalle is willing to add to the signed stipulation of two weeks ago.

While the Town does not necessarily consent to the adjournment, nor would be a signator of that document, we would respect your decision to adjourn until the next meeting as you did last time as well.

CHAIRPERSON BUNTING-SMITH: Given that one proviso --

MR. DANKO: I couldn't hear that. Sorry.

CHAIRPERSON BUNTING-SMITH: I said given that provisional, one proviso.

MR. STEINMETZ: Yes.

MR. DANKO: Yes. And I would like to point out, earlier I made a statement that the -- Thalle may have been not in compliance with the provisions. We do -- that was a third-party monitor had made those statements tonight. I found out that the third-party monitor is not here.

So I would say that I think it's important that the third-party monitor come and be sworn in and put those statements on the record. I don't have firsthand knowledge of that. So I look forward to them coming out and having that discussion with everyone here.

MR. STEINMETZ: The only other matter that I would followup with the regard to the monitor, members of the Board, is that my client has stressed to the town, in particular to the Building Department, that any third-party monitor, respect MSHA, OSHA, and all appropriate safety precautions of -- there have been some concerns about how the town's monitor has conducted itself. And the other thing that I would state is my clients are here to personally swear to the fact that they believe they're in

compliance with the terms of that stipulation.

So it's disappointing that the monitor is not here. Nonetheless, we can respectfully adjourn and we hope to come back on the 19th of October and work with your Board to formulate the issuance of a new special permit that will be acceptable to your Board, to staff, et cetera.

So we've got a lot of work to do. We've provided you with additional information. I would -- my client would ask that you review some -- all of that information that was submitted to you yesterday.

We may be submitting some additional information to help you understand how best to formulate a special permit that would properly regulate this operation in 2023 and going forward. Thank you.

CHAIRPERSON BUNTING-SMITH: Okay. Good work. Yes.

MR. LIEBERMAN: Just one question for the record, on this stipulation, the 7:30, you said processing will not take place --

MR. STEINMETZ: That is exactly right.

MR. LIEBERMAN: -- before 7:30?

MR. STEINMETZ: Correct.

MR. LIEBERMAN: Does that include unloading and loading of trucks?

MR. STEINMETZ: Appreciate the question, Mr. Lieberman. In fact, that was what we discussed and I'll let

Joe and staff address it.

We strongly encourage the Town to permit us to continue to accept inbound material prior to 7:30 because local government, contractors, ConEd, they're all lining up at the gate before that.

They're all doing roadwork at night. They all need to get -- those of you who've been there understand the operation. They need to be there. So the Town made it clear from a regulatory standpoint they don't want processing.

They don't want any noise-generating activity at the moment during this period of time -- this interim period to begin until 7:30 a.m., but, Mr. Lieberman, thankfully, the gates will open and vehicles can come in and unload as well they should so we can all get to work at 7:30 in the morning.

MR. DANKO: But, again, just one point of clarification: We in an ideal world would like to have the two special permit provisions apply across the board. That is not one of them, however, I would respect the short adjournment, hopefully, to resolve these matters once and for all under those conditions.

MS. UEBERLE: I have one question just on what you said is: I thought that we had determined that just ConEd could come in before 7:30.

MR. STEINMETZ: That was on Saturdays. That was specifically on Saturdays.

MS. UEBERLE: We also said the small, but I thought we weren't letting anybody else in until 7:30.

MR. PACCHIANA: For the record, we have not let people in.

MS. UEBERLE: Okay.

MR. PACCHIANA: Before 7:30. We have maintained the 7:30. I was at the site at 7 this morning. We were not accepting trucks. There was a line past Sam's Club out the door. Thank you.

MR. DANKO: Thank you for that clarification. That is an important point.

MR. STEINMETZ: My apologies.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. STEINMETZ: We would respectfully request an adjournment.

MS. GERRITY: Madam Chair?

CHAIRPERSON BUNTING-SMITH: Yes.

MS. GERRITY: This is Liz from the Building Department. David, I just want to make clarification on the hours and days of operation. You said any day of the week. Can you just clarify that so it doesn't include Sundays.

MR. STEINMETZ: Oh, yeah. There's no operation on Sundays. Yes, you're correct, Liz.

MS. GERRITY: Thank you very much.

MR. CHAFIZADEH: Can we have a vote? Do we need a vote?

MR. STEINMETZ: The only thing we request a vote on is an adjournment.

CHAIRPERSON BUNTING-SMITH: Yes.

MR. STEINMETZ: The adjournment is predicated on the offer and the stipulation.

CHAIRPERSON BUNTING-SMITH: Well, we're ready to do our deliberations in any event so --

MS. KNECHT: We can just do it.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. LIEBERMAN: You might as well vote on the adjournment.

CHAIRPERSON BUNTING-SMITH: We'll vote on the adjournment. The adjournment however is for both matters.

MR. STEINMETZ: Correct.

CHAIRPERSON BUNTING-SMITH: 23-21 and 23-22. And do I have a motion in line with the applicant's request to adjourn for reasons previously discussed.

MS. KNECHT: I move that Case Numbers 23-21 and 23-22 be adjourned to the meeting of October 19th subject to the stipulation that was in place the last meeting with the new addition to it.

CHAIRPERSON BUNTING-SMITH: Okay.

MS. DENKENSOHN: I second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. MOSLEY: Aye.

MS. UEBERLE: Aye.

MS. DENKENSOHN: Aye.

MS. KNECHT: Aye.

CHAIRPERSON BUNTING-SMITH: And the Chair votes
aye.

MR. STEINMETZ: Thank you all. We'll see you in
October.

MR. DANKO: Thank you. Appreciate your time.

(Recording stopped.)

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CHAIRPERSON BUNTING-SMITH: And we are back after having done our deliberations this evening. And this is the first Case 23-14, Hartsdale Greenhouses, is adjourned for all purposes to the meeting of October 19th.

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CHAIRPERSON BUNTING-SMITH: And we are back with 23-19, 141 Central Avenue, LLC. And whereas the Greenburgh ZBA has reviewed the above-referenced application with regard to SEQRA compliance. And now, therefore, be it resolved that the subject application is a type two action requiring no further SEQRA consideration.

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

MS. MOSLEY: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye. And who has a motion?

MS. UEBERLE: Madam Chair, I have a motion. I move that the application in Case Number 23-19 be granted provided that the applicant obtain all necessary approvals and file same with the Building Department.

Construction shall begin no later than 12 months after the granting of the last approval required for the date -- for the issuance of a building permit and proceed diligently thereafter in conformity with the plans dated August 27th, 2021, and stamped received July 12th, 2023.

Submitted in support of this application or as such plan 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.

The variances being granted are for the improvements shown on the plan 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 or other variances we have approved herein.

And we'll be putting the findings in the record later on at a later date.

CHAIRPERSON BUNTING-SMITH: Yes. Due to the fact that I had mentioned earlier before we started our meeting, we have a time constraint.

So we are doing the motions, but not findings at this point, however, as usual, we can make certain that they would be put in the record as well as they would be made available to the public. Thank you.

MS. KNECHT: And I'm going to second the motion.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

MS. MOSLEY: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye.

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CHAIRPERSON BUNTING-SMITH: And the next case we have is case 23-20, which again is also adjourned at the request of the applicant to October 19th, 2023.

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CHAIRPERSON BUNTING-SMITH: And the next case is --
or cases I should say is 23-21 --

MR. LIEBERMAN: They're not together.

CHAIRPERSON BUNTING-SMITH: That's true.

MR. LIEBERMAN: So do them in order.

CHAIRPERSON BUNTING-SMITH: Okay. Case 23-21,
which is the modification and renewal request for the
special permit, that is adjourned to October 19th.

MR. LIEBERMAN: For all purposes.

CHAIRPERSON BUNTING-SMITH: For all purposes.

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CHAIRPERSON BUNTING-SMITH: And case 23-22, which is the appeal of building inspector, that is adjourned to October 19th, 2023, for all purposes also.

MR. LIEBERMAN: Subject to.

CHAIRPERSON BUNTING-SMITH: Subject to a stipulation with regard to the stop work order that the additional -- addition to that stipulation is that there will be no processing on any days, that is Monday through Saturday. The property is not open on Sundays, but there will be no processing during those works days prior to 7:30 in the morning.

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CHAIRPERSON BUNTING-SMITH: The next case is Case 23-23, Praveen Elak, 89 Marion Avenue. And that's adjourned for all purposes to October 19th also.

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CHAIRPERSON BUNTING-SMITH: The next case is 23-24, Joseph Guerrerio. And whereas the Greenburgh ZBA has reviewed the above-referenced application with regard to SEQRA compliance.

And now, therefore, be it resolved that the subject application is a type two action requiring no further SEQRA consideration.

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

MS. MOSLEY: Aye.

MS. KNECHT: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye. And do we have a motion?

MS. DENKENSOHN: Yes, we do, Madam Chair. I move that the application in Case Number 23-24 be granted provided that, one, the applicant obtain all necessary approvals and file same with the Building Department.

Two, 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 date stamped received August 14th, 2023, submitted in support of this application or as such plans may be hereinafter 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.

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

Findings will appear on the Town website in the next few days.

CHAIRPERSON BUNTING-SMITH: Do we have a second on the motion?

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. KNECHT: Aye.

MS. MOSLEY: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes, aye.

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CHAIRPERSON BUNTING-SMITH: And the next case is Case 23-25 TH Tarrytown LLC also known as Marriott. And whereas the Greenburgh ZBA has reviewed the above-referenced application with regard to SEQRA compliance.

Now, therefore, be it resolved that the subject application is a type two action requiring no further SEQRA consideration.

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. KNECHT: Aye.

MS. MOSLEY: Aye.

MS. UEBERLE: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye. And do we have a motion?

MS. KNECHT: Yes. I move that the application in Case Number 23-25 be granted provided that the applicant obtain all necessary approvals and file same with the Building Department.

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 date stamped received August 14th, 2023, 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.

The variance being granted is for the improvements shown on the plan 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 or other variances we have approved herein.

Further, the following conditions shall be met:
The applicant shall install a dimmer on the sign to adjust the brightness of the sign.

CHAIRPERSON BUNTING-SMITH: Thank you. Do I have a second?

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

MS. MOSLEY: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye.

And, again, those findings will be available.

MR. LIEBERMAN: Before you get to the last case,

one of the last cases there was a memo from the town forest tree officer saying that the trees that were being proposed does not provide screening.

MS. UEBERLE: I thought that was for the one where they asked for a --

MS. KNECHT: Yes.

MS. UEBERLE: Yes.

MS. KNECHT: For the multifamily.

MS. UEBERLE: Yeah. The Harts Hills Hospitality.

MR. LIEBERMAN: Really?

MS. KNECHT: Yeah.

MR. LIEBERMAN: All right. Just didn't want them to go unnoticed.

MS. UEBERLE: We should actually let them know that so they have it next time.

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CHAIRPERSON BUNTING-SMITH: Case 23-26, Marcia Keizs. Whereas the Greenburgh ZBA has reviewed the above-referenced application with regard to SEQRA compliance. And now, therefore, be it resolved that the subject application is a type two action requiring no further SEQRA consideration.

Do I have a second?

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. MOSLEY: Aye.

MS. UEBERLE: Aye.

MS. DENKENSOHN: Aye.

MS. KNECHT: Aye.

CHAIRPERSON BUNTING-SMITH: And the chair votes aye. Do we have a motion?

MS. MOSLEY: Yes. Yes, Madam Chair. I have a -- we have a motion. We have a motion. I move that the application in Case Number 23-26 be granted provided that the applicant obtain all necessary approvals and file same with the Building Department.

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 date stamped received August 18th, 2023.

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.

Lastly, 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 or other variances we have approved herein.

Findings will be submitted within the next three days.

CHAIRPERSON BUNTING-SMITH: Do I have second?

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. KNECHT: Aye.

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

CHAIRPERSON BUNTING-SMITH: And the chair votes aye.

I do have one question before we go off. On 23-24, there was mention that the applicant would --- no -- I'm

sorry -- 23-23. Is that the one?

MS. DENKENSOHN: Come back with a better plan is that one, 23-23.

CHAIRPERSON BUNTING-SMITH: Yes. Okay. All right. Thank you. I just wanted to make sure.

MS. DENKENSOHN: Are we adjourned?

CHAIRPERSON BUNTING-SMITH: I think we need to put a condition on 23-24, because the applicant stated that he would provide the landscaping and compliance with his neighbor that testified.

MS. UEBERLE: She has it.

MS. DENKENSOHN: That will be on.

CHAIRPERSON BUNTING-SMITH: But I think that's a condition because it's not part of the findings really.

MS. DENKENSOHN: Okay.

MS. UEBERLE: So you just have to add it in.

MS. DENKENSOHN: As number four. Okay. Got it.

CHAIRPERSON BUNTING-SMITH: And with that I believe we are adjourned. Everyone did a great job tonight and we actually got through it.

(Recording stopped.)

(Whereupon, the ZBA meeting for September 21st, 2023, is adjourned to October 19th, 2023, at 7:00 p.m.)

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

THIS IS TO CERTIFY THAT THE FOREGOING
IS A TRUE AND ACCURATE TRANSCRIPTION
OF THE ORIGINAL STENOGRAPHIC RECORD.

Michel A. DeMasi, Jr.
Official Court Reporter