

1 TOWN OF GREENBURGH
2 PLANNING BOARD

3 -----x

4 1. ROLL CALL

5

6 5. ITEMS FOR PUBLIC HEARING/PUBLIC DISCUSSION

7

8 a. CASE NO. PB 24-22
9 Levy
10 134 Euclid Avenue
11 (P.O. Ardsley, N.Y.)

12

13 ADJOURNMENT.

14 -----x

15

16 Greenburgh Town Hall
17 177 Hillside Avenue
18 Greenburgh, New York 10607
19 July 16, 2025

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22 PLANNING BOARD MEETING CONDUCTED IN PERSON

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25 NICOLE AMENEIROS,
Official Court Reporter

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A P P E A R A N C E S:

LESLIE DAVIS, CHAIRPERSON

KIRIT DESAI, Board Member
EDWIN WEINBERG, Board Member
JOHAN SNAGGS, Board Member (Not Present)
DYLAN PYNE, Board Member
MICHELE MOIR, Board Member (Not Present)
EMILY ANDERSON, Alternate Board Member

AMANDA MAGANA, ESQ., Deputy Town Attorney

AARON SCHMIDT,
Deputy Commissioner of the Department of
Community Development and Conservation

1 CHAIRPERSON DAVIS: Good evening, everyone. And
2 once again, welcome to the July 16th, 2025 Planning Board
3 Meeting. But before we start the public hearing, I'd like
4 to have a motion to adjourn so that we can go in the back
5 and seek legal advice.

6 BOARD MEMBER PYNE: So moved.

7 CHAIRPERSON DAVIS: Can I have a second?

8 BOARD MEMBER DESAI: Second.

9 BOARD MEMBER PYNE: All in favor?

10 BOARD MEMBER DESAI: Aye.

11 BOARD MEMBER WEINBERG: Aye.

12 BOARD MEMBER PYNE: Aye.

13 ALTERNATE BOARD MEMBER ANDERSON: Aye.

14 CHAIRPERSON DAVIS: We will be back shortly.

15 (Recess taken.)

16 BOARD MEMBER DAVIS: Good evening, everyone. We're
17 reopening the July 16th, 2025 Planning Board Meeting at
18 8:25 p.m. No votes were taken in the back, and we'll need
19 to do a roll call.

20 DEPUTY COMMISSIONER SCHMIDT: Yes. Chairperson
21 Davis?

22 CHAIRPERSON DAVIS: Here.

23 DEPUTY COMMISSIONER SCHMIDT: Mr. Pyne?

24 BOARD MEMBER PYNE: Here.

25 DEPUTY COMMISSIONER SCHMIDT: Mr. Weinberg?

1 BOARD MEMBER WEINBERG: Here.

2 DEPUTY COMMISSIONER SCHMIDT: Mr. Desai?

3 BOARD MEMBER DESAI: Here.

4 DEPUTY COMMISSIONER SCHMIDT: Our alternate,
5 Ms. Anderson?

6 ALTERNATE BOARD MEMBER ANDERSON: Here.

7 DEPUTY COMMISSIONER SCHMIDT: Ms. Anderson will be
8 a full voting member this evening in place of Michele Moir
9 who is not present.

10 Also not present is Board Member Johan Snaggs.

11 Thank you.

12 BOARD MEMBER DAVIS: Okay. So, first up for public
13 hearing is going to be Case No. PB 24-22, Levy at 134 Euclid
14 Avenue, Ardsley, New York. This is a preliminary
15 subdivision hearing and wetland/watercourse, tree permit --
16 I'm sorry, tree removal permit.

17 Hi.

18 MR. JACOB AMIR: Good evening, Madame Chair, Board
19 Members and staff. My name is Jacob Amir from Zarin &
20 Steinmetz, and I'm here with Jared and Jen Levy, the owners
21 of 134 Euclid Avenue.

22 This process started with a work session in May and
23 a public hearing on June 4th, and it continued till July 2nd
24 and we're back here tonight. I'm not going to rehash
25 everything that's been happening. I'm sure the board is

1 familiar with everything up until now.

2 I would like to address some of the comments that
3 are encapsulated in my July 10 and July 16 letters to this
4 board. In part, those respond to comments mostly from
5 neighbors who are objecting or have issues with this
6 application, this two-lot subdivision application.

7 Just to frame this in terms of the legalities of
8 it, and as stated in my letters to your board, there's a
9 strong deference to permit and approve this subdivision, and
10 objections such as personal concerns, economic concerns,
11 aesthetics, speculation, those things are not grounds to
12 deny an application. It should stand -- it should stand on
13 its own.

14 With that framework, I'll just go through some of
15 the comments from the July 2nd meeting - the first of which,
16 I think, is the most important one, concern the declaration
17 of protective covenants. The recorded instrument against
18 this property, and I assume other properties in the -- what
19 we're calling the Ardsley Estates, and the language in there
20 regarding restrictions. That specific language, if your
21 board recalls, refers to the provision of the declaration
22 concerning fences, pools, basically accessory dwellings.
23 And the -- I think the chief concern that was raised, and
24 this is a legal concern, is that, one, prohibits a
25 subdivision; and two, even if a subdivision is not

1 restricted by those covenants, a later development of the
2 property is re -- is prohibited. Neither of those --
3 neither of those are true.

4 There was a Benchmark title report. One of the --
5 one of the neighbors had provided a Title Vest title report,
6 and the applicant provided its 2006 title report. All of
7 those contained the recorded instruments against the
8 property. None of those recorded instruments prohibited a
9 subdivision.

10 With regard to the restriction itself, and I'll
11 just notice in matter of interest here, to the extent that
12 the civic association, which has been the dominant opposing
13 party, so to speak, relies on that declaration, that
14 declaration specifically says, for instance, you can't
15 install an in-ground pool in the Ardsley Estates. That's
16 restricted. Let's even pretend that that is still a viable
17 restriction today, that is not ambiguous, that can be looked
18 at. There are two properties in the Ardsley Estates that I
19 saw on Google Earth that have in-ground pools. So, either
20 those two properties are at odds with the declaration, which
21 I don't think is the case, or, as a matter of law, that the
22 Court of Appeals and the Second Department, both of which
23 are binding on this board, have said, restrictions that are
24 ambiguous or unclear or that can be determined or
25 interpreted in one of several ways are unenforceable here

1 and should not be considered here.

2 And just to add a final point on this, the
3 declaration is, as a matter of law, a contract. It is a
4 governing contract between the grantor and estates in the
5 Ardsley Estates. It is basically a contract between
6 neighbors. So this board is not an adjudicatory board. If
7 there is an issue in terms of an interpretation of a legal
8 document, a recorded document, that is something which
9 should be resolved outside this building, not in this
10 building.

11 The next point is there's references to the
12 property being listed for sale. The property is not, and
13 was not, and has not, ever been listed for sale. There was
14 some information about the property. That is not so
15 unusual.

16 There were issues -- there were questions or
17 statements with respect to water pressure, which is largely
18 speculative, some of it asking why did Toll Brothers do what
19 it did, you know, 30 years ago. Nobody knows why. Again,
20 it's not relevant for our purposes.

21 And effects on the environment, for instance,
22 wetlands, watercourse, removal of two trees, where the
23 applicant, under his mitigation plan, is proposing in excess
24 of 20 trees plus shrubs, plus hedges. It is actually
25 beautifying the land. So, in contrast to two trees being

1 removed, we have a multitude of trees that would be planted
2 under the subdivision plan.

3 And there is a -- there's a significant workhorse
4 protection under this plan that has been submitted from
5 Hudson Engineering that has been reviewed by this board, and
6 this board has already, I think two public hearings ago,
7 issued a negative declaration.

8 There were some references to communication with
9 neighbors. I have always maintained that I am prepared to
10 speak to anybody at any time, if available, on this project,
11 and my -- my contact has always been available. At the last
12 -- after the last meeting I actually had a very good
13 conversation, I thought, for over an hour with the neighbors
14 right outside late into the evening, and I appreciated them
15 waiting there. There was an impasse. So, there's been
16 communication. You know, it didn't really go anywhere, but
17 the lines of communication have been open.

18 And then lastly, I think on the -- after the
19 July 2nd meeting, that the character of the neighborhood
20 would be dramatically altered and negatively impacted by
21 this subdivision. This lot, as the board may recall, is
22 currently a nearly 23,000 square foot lot. It is outside
23 and beyond -- outside the norm of houses and lots in this
24 property. We are proposing a subdivision to two lots,
25 12,984 square feet and 10,008 square feet.

1 In my July 2nd -- July 10 letter to your board, I
2 identified all 34 lots in the Ardsley Estates, and of all 34
3 lots in the Ardsley Estates, 62 percent of them are smaller
4 in size than my client's and the applicant's property. Of
5 the -- of those lots 16 of them are between 10,000 and
6 12,999 square feet. So a subdivision would be completely
7 within the character of this neighborhood. It would conform
8 the two lots, poster lots, to the other lots in the
9 surrounding area. There are two properties that are
10 unusually large. There's a 33,137 square foot and 69,813
11 square foot -- square foot lot.

12 In the July 16 following -- I'm sorry. Following
13 July 10, I understand that comments were received by the
14 neighbor at -- neighbors at 132 Euclid Avenue, and those
15 comments are addressed in my July 16 letter to the board.

16 This board -- and I have no problem with this, this
17 board gave the public ample opportunity to provide any
18 comments that they wished to provide to this board and as
19 much time as possible to do that, and that was done. They
20 provided comments on July 14, and so we had basically a day
21 and a half to put together a response and we did. We
22 provided this board with a letter earlier today. And there
23 are basically three or four comments that were raised.

24 The first is that the Ardsley Estates Civic
25 Association is obtaining legal counsel. I cannot speak to

1 that. That's completely irrelevant. They've known about
2 this application. They've appeared at two public hearings.
3 It's a non-issue.

4 The second comment is a question about subdivision
5 versus development. And that, again, is based upon the
6 declaration of protective covenants. And, once again, it's
7 respectfully not within this board's purview, where there is
8 competing interpretations of a recorded document, to take
9 one side versus the other, right. No substantial evidence
10 has presented to this board which would even suggest that an
11 alternative or restrictive view of the covenants should be
12 applied.

13 The third comment, again, refers to the protective
14 covenants. And essentially, it's the same argument, same
15 discussion. This has been brought up on June 4th. It was
16 brought up on July 2nd. It was brought up on comments up
17 until July 14th. So we're dealing with the same comments,
18 the same arguments for roughly a month and a half.

19 Last comment that is not new but worth mentioning
20 is a question about whether a traffic study should be
21 provided for this two-lot subdivision. The answer, quite
22 simply, is no. And just to put the particulars on it, there
23 is a turn if you come down -- what's the street? I'm sorry?
24 If you come down -- thank you. If you come down Euclid and
25 you make a turn towards 134 Euclid, the property at 132

1 Euclid fronts the entire turn. It's about 150 -- it's
2 149.4 feet from the curb going in an easterly direction,
3 meaning the applicant's property is one hundred -- is about
4 150 feet or so, maybe 120 to 150 feet, from the curb. It's
5 -- a traffic study is irrelevant and unnecessary for these
6 purposes.

7 The last two comments were not really comments but
8 a recitation of the timeline of this project. I don't think
9 any response is needed to that.

10 And reflections on living in the Ardsley Estates.
11 And the Ardsley Estates is a wonderful community, beautiful
12 houses, peaceful and quiet. There's no disagreement with
13 that, and I commend everyone for noticing that. But, you
14 know, why people moved into the Ardsley Estates, whatever
15 the motivation was, it was for different reasons that need
16 not be dwelled on, you know, at this time.

17 At the end, there's not much that I can offer to
18 this board that this board has not already heard, and having
19 heard all of the information, received all of the documents
20 and knowing that this application is completely within code,
21 the dimensionals are within code, no variances are being
22 required, it's permitted, it's permitted in the zoning
23 district, we would ask that the public hearing be closed and
24 that this board move towards resolution on the application.

25 CHAIRPERSON DAVIS: Thank you.

1 DEPUTY TOWN ATTORNEY MAGANA: Before we hear
2 comments from the public, I just wanted to note that there's
3 been a substantial number of comments already made, and
4 given that, we would ask that no comments be repeated and
5 just new comments be discussed.

6 CHAIRPERSON DAVIS: Do we have anyone from the
7 public?

8 Mr. Rosenbaum, please.

9 MR. DAVID ROSENBAUM: Thank you, Members of the
10 Board. I'll try not to repeat what I've said before but
11 elaborate on some of it.

12 CHAIRPERSON DAVIS: Can you still state your name?

13 MR. DAVID ROSENBAUM: Certainly. I'm David
14 Rosenbaum. I live at 132 Euclid Avenue next door to the
15 subject property, and I'm President of the Ardsley Estates
16 Civic Association, which I am speaking on behalf of this
17 evening.

18 As stated before, the Ardsley Estates Civic
19 Association opposes the request for the approval of the
20 subdivision -- subdivide. We oppose the request to remove
21 any trees, and we oppose the request for a
22 wetland/watercourse permit.

23 As was discussed at the last two meetings, we had
24 trouble finding representation. We have retained
25 representation. We retained the law firm of Abrams

1 Fensterman. Justice Robert Spolzino will be representing us
2 or advising us. It's because I'm not an attorney, I don't
3 claim to be an attorney, so there are statements that are
4 made that I can't comment on whether they are in fact
5 accurate, completely accurate, inaccurate and so on. So we
6 now have legal counsel who can better advise us what is and
7 isn't the case.

8 We acknowledge the fact of the protective covenant
9 --

10 DEPUTY TOWN ATTORNEY MAGANA: Just to hold you
11 there. Is your counsel here tonight?

12 MR. DAVID ROSENBAUM: No, they are not. They're
13 being used largely as an advisory role as opposed to a
14 representative role because we actually have no budget or
15 resources. We're paying for this personally out of our
16 pocket to make sure the civic association is represented.

17 CHAIRPERSON DAVIS: Okay. So then I'm going to
18 need a greater understanding, because it was my
19 understanding that you were retaining counsel, and not in an
20 advisory role, and which was why you were given a certain
21 deadline. So, when I got the information that -- I think it
22 was the 10th -- that the Ardsley Civic Association -- it was
23 my understanding that it was retained counsel, not in an
24 advisory, so.

25 MR. DAVID ROSENBAUM: Well, we've retained counsel.

1 If you look through the materials I sent on Monday, we
2 retained counsel. We've submitted a retainer. We're
3 finalizing the engagement letter. But the way we'll be
4 using counsel is more to advise us as opposed to appear at
5 these hearings and represent us, purely out of budgetary
6 purpose.

7 CHAIRPERSON DAVIS: So will counsel be submitting
8 any documents?

9 MR. DAVID ROSENBAUM: If necessary, yes. If not
10 necessary, no.

11 DEPUTY TOWN ATTORNEY MAGANA: Okay. Thank you.

12 MR. DAVID ROSENBAUM: Contrary to what was just
13 said, we believe the protective covenant granted by Toll
14 Brothers, which precludes development, explicitly prohibits
15 lot owners from erecting or permitting to be erected on any
16 lot an exterior building, addition or improvement. We're
17 not challenging the question of subdivision. It does not
18 speak to subdivision, but it does speak to development. And
19 it speaks to the fact that the restrictions are for
20 structures and improvements. It doesn't just say lot size.
21 So any comment about character of the neighborhood just
22 about lot size, I think is a partial response, not a
23 complete response.

24 And as we've said, the protective covenant is run
25 with land, not with the owner. They were referenced in the

1 Title Vest title report. They were referenced on the deed.
2 So, in my opinion, not an attorney, there's explicit
3 reference to that document being in place. Subdivision
4 versus development being separate.

5 Just to restate something that came up at the last
6 planning board meeting about whether Toll Brothers would not
7 have been able to build the houses at Ardsley Estates, I'll
8 reiterate that the protective covenant was granted by Toll
9 Brothers, not by the preceding owner that actually
10 subdivided the property. So Toll Brothers, explicitly in
11 the protective covenant, grants themselves, as the grantor,
12 permission to build the houses.

13 The questions we raised, and I shared some of this
14 but just so the public can hear this, subdivision and
15 development are two separate actions. We would question if
16 the protective covenant precludes development, which we
17 believe to be the case, why would an owner subdivide the lot
18 if they can't subsequently develop it?

19 Questions raised, and I provided a decision tree --
20 I'm a mathematician by training, that's kind of the way I
21 look at things -- is that they can't build it are they going
22 to subdivide it and leave it fallow? Are they going to look
23 to sell it to somebody else and either disclose the fact
24 that it can't be subdivided or at least that it's a
25 protective covenant, or are they not going to disclose that?

1 If they don't disclose it what problems does it create for
2 the town, for the board, for title company, for neighbors,
3 for the buyer? Sort of a buyer beware. There's kind of
4 that concern, as it affects the neighborhood and this town.

5 If they subdivide and sell the lot why would a
6 buyer buy a lot that they can't subdivide? I'll speak for
7 myself. I would not want to buy a lot someplace that I
8 couldn't live nearby that I was responsible for maintaining.
9 If the buyer thought they could subdivide -- they could
10 develop and subsequently can't, again, what issues does that
11 raise for the town, the planning board, the neighbors, the
12 buyer and so on?

13 CHAIRPERSON DAVIS: I'm sorry, Mr. Rosenbaum, while
14 we definitely appreciate your comments, we can't make
15 decisions, and as we asked with the comments, based upon
16 what might happen and suppose, that kind of thing, in terms
17 of what may happen with them selling the property, not
18 selling the property. So -- and I know that there were
19 thoughts and there were comments regarding whether or not
20 the applicant would keep the property, leave it blank, but
21 in terms of what another buyer would do, we can't --

22 MR. DAVID ROSENBAUM: So I will quote the
23 applicant's attorney from the July 2nd meeting where he
24 stated it could be recently -- say at some point someone may
25 want to put a house up there, then further acknowledged

1 there were expressions of interest and it would be
2 disingenuous for me to say, okay, we're just going to
3 subdivide it and leave it at that.

4 CHAIRPERSON DAVIS: Right. I understand. But
5 whether or not a buyer would buy it, we can't -- we don't --

6 MR. DAVID ROSENBAUM: I understand. I'm suggesting
7 whether they sell the lot or don't sell the lot it creates a
8 potential problem for this town.

9 DEPUTY TOWN ATTORNEY MAGANA: So, there's property
10 maintenance requirements. If it was vacant, there would be
11 potentially violations issued. If somebody didn't pay the
12 taxes then there would be in rem proceedings. So, there's
13 mechanisms to avoid --

14 MR. DAVID ROSENBAUM: Understood and appreciated.
15 Which still leaves it to the neighbors or the town to
16 enforce those maintenance requirements.

17 CHAIRPERSON DAVIS: As with many other properties.

18 MR. DAVID ROSENBAUM: As with many other
19 properties.

20 I want to speak to the environmental impact because
21 I think there are things that we discovered in terms of
22 continuing to read through the documents. There was a
23 comment earlier about whether something is a direct
24 violation of the protective covenants or not, and the
25 wetlands and watercourse law it requires rejection of an

1 application if inconsistent with covenants. So there is an
2 open question about whether development -- subdivision,
3 which arguably leads to development, is inconsistent with a
4 protective covenant that precludes development.

5 DEPUTY TOWN ATTORNEY MAGANA: So I know there's
6 been a lot of discussion about the declaration of covenants,
7 which the planning board has listened to, and -- but I just
8 want to be clear that the planning board has no enforcement
9 mechanism over the declaration of covenants. That's a
10 private matter between the homeowners and the property
11 owners and the residents within the --

12 MR. DAVID ROSENBAUM: Correct. But does the
13 planning board not have discretion over granting the
14 subdivision?

15 DEPUTY TOWN ATTORNEY MAGANA: Yes, but nothing to
16 do with the declaration of covenants.

17 MR. DAVID ROSENBAUM: So, to the extent that this
18 is a split transaction, or arguably a split transaction, or
19 step transaction, which is being presented as two separate
20 transactions that ultimately represent one objective, there
21 are legal considerations that I'm told that need to be
22 addressed and considered pre -- by this planning board or
23 subsequently, perhaps subsequently, but, in fact,
24 considerations if this is a step transaction.

25 The wetland report that was submitted with the

1 applicant's materials goes into a lot of detail about
2 current conditions and acknowledges poor drainage in the
3 conservation area. I was unable to find anything in the
4 report that suggests what the conditions will be post
5 subdivision or arguably post development.

6 The wetlands report also references a very small
7 subset of the wildlife that's existing in the area. And,
8 again, I will grant this spans the world of subdivision and
9 development. But they spoke about deer, raccoon and coyote.
10 There was no reference to some of the other animals and
11 wildlife we've seen there, including wild turkeys, red fox,
12 tree frogs, indigenous birds and a whole list of them that
13 are included in my materials. I believe there are
14 potentially significant impact to wildlife and the
15 conservation area which was not addressed in the wetland
16 report.

17 There were comments about how the landscape plan
18 has significant improvements to the landscaping on the lot.
19 It presupposes that the landscaping needed improvement. We
20 did observe that a number of the trees and plants -- the
21 green giants, which were discussed at length at the June
22 meeting of this planning board. According to Westchester
23 County's Go Native Plant Brochure, only a subset of the
24 proposed plants are actually listed as recommended for
25 Westchester County. That's according to the Westchester

1 County Go Native Plant Brochure. And according to the
2 Nature Center of Greenburgh, the green giants are not an
3 indigenous species. It goes on to say that the green giant
4 is little value to insects and birds in the part of the
5 country. It is a hybrid between two non-indigenous species,
6 and unless you're buying specifically the *thuja occidentalis*
7 -- and I'll apologize for the pronunciation -- you're better
8 off with other trees. So there are questions even on the
9 landscaping plan if it's respecting the environment for
10 consideration of the conservation area. And I provided to
11 the board those two references in the materials from
12 Westchester County and from the Greenburgh Nature Center.
13 I'm not a botanist, but I know how to research.

14 I also call attention to the storm water management
15 plan and drainage analysis plan. It appears that they've
16 identified rock ledge at 84 inches down, which suggests,
17 again, subdivision versus development; that if they were to
18 build a house in the area they would need to excavate and/or
19 blast. There are trees in the wetland area, the
20 conservation area, that are likely going to be at risk of
21 falling if there's any blasting or major construction, at
22 least one or two of which would very likely fall on our
23 house. So I have a personal concern about that, not to
24 mention the impact on the conservation area in general.

25 There was conversation at the November planning

1 board work session, which actually this process has gone
2 back to November, where it was talked about how the planning
3 board doesn't like to approve building within the 100-foot
4 buffer area around a conservation area, and again
5 acknowledging we're talking subdivision versus building, but
6 to the extent they're related, and the comment was that they
7 can't -- you can't build on the second half of the lot
8 without encroaching on that buffer area. In my opinion,
9 that's not an excuse to approve what can become a building
10 site because we have four original buyers in Ardsley Estates
11 who were told firsthand that a house couldn't be built
12 there. It's not hypothesizing about why the Toll Brothers
13 didn't build there, but actually stating that the Toll
14 Brothers acknowledged a house could not be built further
15 west on that lot.

16 To the best of our knowledge and observation, on
17 some of the plans submitted by the applicant, they are shown
18 with a construction -- the installation of temporary
19 construction and silt fencing around the actual work areas
20 for remediation. A lot of the remediation has been done.
21 As far as we have been able to see, there were no fences put
22 up. It would appear as if the applicant has not followed
23 their own commitment to this planning board. Sort of
24 raises, again, some concern or questions about commitment to
25 the environment.

1 Traffic safety. I'll comment that in fact is a
2 dangerous turn. Whether the one-ish driveway changes that
3 through a traffic study, I just observe that it wasn't done.

4 We did have, as Mr. Amir said, a very good
5 conversation at the last meeting. We talked about potential
6 areas for compromise. We were advised not to make -- have
7 discussion about compromise on the application till we get a
8 chance for counsel to consider it.

9 Summary. I'll wrap this up pretty quickly.

10 CHAIRPERSON DAVIS: Thank you.

11 MR. DAVID ROSENBAUM: We think that the planning
12 board, we were told -- we've read the planning board has
13 responsibility to balance the rights of the landowners while
14 ensuring adverse impacts of the surrounding community are
15 minimized, including character of town, architect, density,
16 traffic, safety and protecting the rights of landowners who
17 are impacted by the applications.

18 The voters within the Ardsley Estates Civic
19 Association who voted on this matter are unanimous in their
20 opposition to the three items. We are not trying to
21 prevent, of course, the applicant from doing what they're
22 permitted to do, we are trying to protect the rights of the
23 other residents and owners.

24 As I mentioned, the attorney did acknowledge that
25 there's interest in the land and reason to believe that a

1 house would be built there. I urge this planning board, on
2 behalf of the civic association, to consider all the issues
3 we discussed, to deny the applications. If the town board
4 -- if the planning board is considering approval of the
5 proposals, in light of the additional questions and issues
6 on wildlife and on the conservation area, respectfully ask
7 that you reconsider your finding from a negative declaration
8 to a positive declaration so a proper investigation and
9 evaluation of the environmental impact can be undertaken
10 before approving this subdivision that leads forward from
11 there.

12 If the subdivision is approved, we'd request that
13 the planning board deny the tree removal permit and the
14 wetland/watercourse permit to make sure that any subsequent
15 discussion for actual development comes before this board,
16 because it was said in prior meetings that if it's simply a
17 residential development in an R-10 district, the development
18 does not need to come before this board unless there are a
19 tree removal or watercourse/wetland permits. If those two
20 permits are denied, we ensure that there's public visibility
21 for further discussion around those matters.

22 And as mentioned, we've retained counsel. We do
23 respectfully request that if a decision is to be made in the
24 affirmative that it be delayed till we have a chance for our
25 counsel to get up to speed and advise us appropriately.

1 CHAIRPERSON DAVIS: For the record, how long do you
2 believe that that should be?

3 MR. DAVID ROSENBAUM: In my discussion with
4 counsel, they said it could take a month or two months for
5 them to get up to speed.

6 DEPUTY COMMISSIONER SCHMIDT: Thank you.

7 CHAIRPERSON DAVIS: Thank you.

8 MR. DAVID ROSENBAUM: Thank you very much.

9 DEPUTY COMMISSIONER SCHMIDT: Yes. We'll just give
10 a moment.

11 Show of hands anyone else that wishes to speak on
12 this application to bring forth new comments or items that
13 have not already come up before the board and are on the
14 record.

15 Okay. Mr. Amir?

16 BOARD MEMBER DESAI: Can I ask a question?

17 DEPUTY COMMISSIONER SCHMIDT: We're just waiting on
18 the stenographer.

19 BOARD MEMBER DESAI: Okay. Yeah. I mean, this
20 will help to answer one of the questions that I have.

21 MR. JACOB AMIR: You want me up here?

22 DEPUTY COMMISSIONER SCHMIDT: Yes.

23 BOARD MEMBER DESAI: Yeah. My -- I mean, one of
24 the comments that you made in your opening statement that
25 there is no traffic issue. So, regarding that, do you have

1 any accident report from the police department, Greenburgh
2 Police, to corroborate your assumption that there is no real
3 issue with safety?

4 MR. JACOB AMIR: I think my response -- at least
5 the intent of my response to that issue was there's no need
6 for a traffic safety because this is a --

7 BOARD MEMBER DESAI: I understand.

8 MR. JACOB AMIR: Right. That's just a simple
9 answer. But I was trying to give context in terms of where
10 my client's property is versus that turn around. My
11 client's property is about 150 feet from that turn around.

12 BOARD MEMBER DESAI: But the issue neighbors have
13 is the safety and they put more -- one more driveway. So my
14 question is that -- can you get some corroborating your
15 determination that there's no safety issue?

16 CHAIRPERSON DAVIS: Well --

17 DEPUTY COMMISSIONER SCHMIDT: Can I -- I can speak
18 to some of that. So, I do have -- following the last public
19 hearing, I did seek to speak to our traffic and safety
20 sergeant specifically related to whether or not it makes
21 sense in this individual application, as the board has done
22 in other applications, if it were to move forward with the
23 decision to restrict the site triangles leaving the driveway
24 to prevent any obstructions so that anyone exiting the
25 driveway would have free and clear to -- to be able to see a

1 vehicle coming around the turn so that it can make its turn
2 out. The sergeant was out of town. He expects to get back
3 to me tomorrow. When I have that conversation, I can ask
4 him about accident data history in that vicinity, and we can
5 report that back to the board and provide a copy to the
6 applicant's team and post it on the website as well.

7 MR. JACOB AMIR: And that would certainly be
8 agreeable to the applicant as a condition of site plan
9 approval.

10 DEPUTY COMMISSIONER SCHMIDT: The site obstruction
11 -- the site -- clearing the site triangles?

12 MR. JACOB AMIR: If -- from the driveway shown on
13 that footprint -- yeah, to clear obstructions, yes, that's
14 fine.

15 DEPUTY COMMISSIONER SCHMIDT: Okay.

16 MR. JACOB AMIR: Sure.

17 DEPUTY COMMISSIONER SCHMIDT: Thank you.

18 So, we can report that back to the board, to the
19 public and to the applicant.

20 BOARD MEMBER DESAI: Yeah, okay.

21 DEPUTY TOWN ATTORNEY MAGANA: And that would be
22 memorialized in a site easement or just a triangle --

23 DEPUTY COMMISSIONER: On the plans.

24 DEPUTY TOWN ATTORNEY MAGANA: Okay.

25 BOARD MEMBER DESAI: So they will mark up the plan

1 and provide us what the triangle will look like.

2 MR. JACOB AMIR: Well, I mean, we can mark it up on
3 the plan as far as a final approval, sure.

4 BOARD MEMBER DESAI: Not final but --

5 DEPUTY COMMISSIONER SCHMIDT: On the subdivision
6 improvement plans.

7 MR. JACOB AMIR: Sure.

8 BOARD MEMBER DESAI: Okay.

9 ALTERNATE BOARD MEMBER ANDERSON: I've got a
10 comment or question of you. So, given the storm surge and
11 the flooding that the Town of Greenburgh has been
12 experiencing in the past few years, this week is a good
13 example of it, I'm a little uncomfortable with these -- with
14 further encroachments on the wetlands buffer and the
15 proximity of the limit of disturbance to the sensitive
16 wetland area. I'm wondering if you would consider either
17 shifting the limit of disturbance further away from the
18 wetlands or designing a storm water management plan to
19 accommodate a 100-year storm event.

20 MR. JACOB AMIR: Well, a couple of thoughts. One,
21 I believe, and I may be wrong, but the town code requires a
22 25-year --

23 DEPUTY COMMISSIONER SCHMIDT: That's correct.

24 MR. JACOB AMIR: Right -- and the proposal is for a
25 50-year storm.

1 ALTERNATE BOARD MEMBER ANDERSON: I'm asking if you
2 would consider a 100-year storm.

3 MR. JACOB AMIR: I don't know if we would. I don't
4 know what the implications of that would be so I'm hesitant
5 to say that we would. I do think that the storm water
6 management plan that's proposed is sufficient. And if you
7 saw the -- sort of the topography, I think it does lend to
8 it. But I'd have to think through whether we want to
9 consider that. I'm not so sure about that.

10 In terms of moving -- I don't know if you're
11 referring to moving the footprint on or something else.

12 DEPUTY COMMISSIONER SCHMIDT: The limit of
13 disturbance. So I can bring up the drawing.

14 MR. JACOB AMIR: That would be helpful, yes, just
15 so I could be clear in what's being asked.

16 DEPUTY COMMISSIONER SCHMIDT: Bear with me. Sorry.

17 MR. JACOB AMIR: Can you also give me one second?
18 I'm just going to ask a question.

19 DEPUTY COMMISSIONER SCHMIDT: Here we go.

20 Okay. So, on the attached plan that I have
21 displayed on the screen, this hatched line coming in off the
22 far property line or the -- I'll call it the westerly
23 property line comes down in this angle, goes around three
24 proposed storm water management chambers and then runs kind
25 of along the rear property line, then ties into the rear

1 property line at this point and runs along the property
2 line. The question from Ms. Anderson is the applicant
3 consider or is there an opportunity to shift this limit of
4 disturbance line further into the site to protect the
5 off-site wetlands.

6 MR. JACOB AMIR: I'm not -- I'm trying to see what
7 impact that has on the footprint and on the -- in the area
8 around if that would -- if that would -- that might affect
9 it. I don't know if there's enough room there.

10 DEPUTY COMMISSIONER SCHMIDT: So, you see how this
11 -- the limit of disturbance bends around the storm water
12 management chambers?

13 MR. JACOB AMIR: Yes.

14 DEPUTY COMMISSIONER SCHMIDT: I mean, if it was to
15 come closer to straight across the rear of the property
16 line, kind of in line with this metal post and mesh, and
17 then tie in, is that something that could be considered? It
18 seems like there's a storm water discharge pipe and then
19 there's, you know, a shown patio. The question is could
20 that be tightened up to further protect the off-site
21 wetlands?

22 MR. JACOB AMIR: If it does -- yeah, I mean, if it
23 doesn't alter the -- you know, the declaration of the
24 buildable lot, I think that's fine. I don't know if you --
25 we're not talking about a 100-year storm. We're talking

1 about -- that's not --

2 ALTERNATE BOARD MEMBER ANDERSON: I said --

3 DEPUTY COMMISSIONER SCHMIDT: I think it was --

4 ALTERNATE BOARD MEMBER ANDERSON: I gave you two
5 options, to build to the 100-year storm event or to shift
6 the limit of disturbance away from -- from the protected
7 area.

8 MR. JACOB AMIR: Yeah, I -- so I don't know if
9 there's the ability to increase to a 100-year storm. I'm
10 trying to quickly, in my head, understand if we shift that
11 line of disturbance north what are we impacting.

12 DEPUTY COMMISSIONER SCHMIDT: And I believe
13 representation from Hudson Engineering may be on the Zoom
14 call and it may be worthwhile for them to speak to it.

15 MR. JACOB AMIR: Oh, are they on?

16 DEPUTY COMMISSIONER SCHMIDT: I believe -- I forget
17 the gentleman's name.

18 MR. JACOB AMIR: Abdulaziz?

19 DEPUTY COMMISSIONER SCHMIDT: Yes.

20 MR. JACOB AMIR: Oh, I didn't realize he was on.

21 DEPUTY COMMISSIONER SCHMIDT: He was earlier.

22 MR. JACOB AMIR: Absolutely, absolutely.

23 DEPUTY COMMISSIONER SCHMIDT: So I think that may
24 make sense --

25 MR. JACOB AMIR: Yes.

1 DEPUTY COMMISSIONER SCHMIDT: -- because they may
2 be able to go through the grading plan --

3 MR. JACOB AMIR: Absolutely.

4 DEPUTY COMMISSIONER SCHMIDT: -- perhaps there's
5 grading limitations or something.

6 MR. JACOB AMIR: Yes, that's great. My apologies.
7 I didn't realize that they were on.

8 DEPUTY COMMISSIONER SCHMIDT: So, let me stop
9 sharing and see.

10 Abdulaziz? Would you be able to speak to the board
11 to that and please share the screen to show the plans?
12 Thank you.

13 MR. ABDULAZIZ YOUSEF: Good evening, members of the
14 board. My name is Abdulaziz Yousef from Hudson Engineering.

15 Just following the questions, the two points I'd
16 like to make is further increasing the storm capacity for
17 the 100-year storm event would likely increase our limit of
18 disturbance. Originally, we had additional CULTEC systems,
19 CULTEC chambers closer to the rear property line. We were
20 maintaining 10 feet from the property line, but we adjusted
21 that to provide better buffer or, I guess, better separation
22 from the actual wetlands, which is off-site here. So we're
23 already had a positive change in that regard. So if we were
24 to increase to the 100-year storm event, which will
25 ultimately require more chambers, I can't say for sure that

1 we would be able to fit it in in the property without
2 increasing the LOD. We did have to split the systems to
3 accommodate for the 50-year storm event to some in the rear
4 and some in the front, as you can see over here, and we
5 varied the chambers as well because, you know, we had 280s,
6 which are shallower, as opposed to 330s we had in the rear
7 yard. So, increasing to the 100-year storm event, I think,
8 would be a tall ask for this site, and we're already going
9 above and beyond by meeting the 50-year storm event.

10 DEPUTY COMMISSIONER SCHMIDT: Okay.

11 MR. ABDULAZIZ YOUSEF: Regarding --

12 DEPUTY COMMISSIONER SCHMIDT: Can I just interrupt
13 just for a moment? Understood.

14 MR. ABDULAZIZ YOUSEF: Sure.

15 DEPUTY COMMISSIONER SCHMIDT: I see that there's
16 almost like two lines or limits of disturbance. One kind of
17 follows behind the storm water units and continues along
18 that line and then -- before trailing off, so that upper
19 limit.

20 MR. ABDULAZIZ YOUSEF: Right. So are you referring
21 to this line?

22 DEPUTY COMMISSIONER SCHMIDT: I am.

23 MR. ABDULAZIZ YOUSEF: Right. So this is
24 construction fence because we need it to make sure the limit
25 of disturbance cover -- goes to the rear property line

1 because the future developer, if there were to be any, may
2 want to remove this metal post fence or move it and keep it
3 in line this way, and we don't know what the plans would be
4 for this roll of tear right here. So, that's majorly why
5 the limit of disturbance goes to this point here.

6 If the client is -- I mean, we can have a
7 discussion about that, if the client is okay with leaving
8 all of this and the fence here and that being binded to the
9 future -- if there were to be any future owner after its
10 approval, we can move the limit of disturbance to point
11 right here. But it would be limited to the property.

12 And just to speak to how much of a positive benefit
13 that would be to disturbing the wetlands buffer, as you can
14 see, the wetland buffer area goes -- it's pretty much the
15 entire property, except this area, and in reality extends to
16 the neighboring property on this side as well, right, if
17 you're looking at the 100-foot buffer. So, this extent
18 right here, I'm trying to understand how much of a positive
19 benefit if you were to move this fencing to this point
20 versus to keep the limit of disturbance to this point.

21 DEPUTY COMMISSIONER SCHMIDT: Understood. So, two
22 comments. One is that there already is -- and I understand
23 why you have that limit of disturbance that dips down, but
24 that relates to some relocation of existing landscaping that
25 was shown on the landscape architect's plan.

1 MR. ABDULAZIZ YOUSEF: Right.

2 DEPUTY COMMISSIONER SCHMIDT: And, you know, one
3 consideration could be to limiting the area beyond that
4 pulled back limit of disturbance to hand-work only without
5 the need for machinery and that results in less overall
6 disturbance. Digging out, you know, arborvitae shrubs while
7 may be a little bit more, you know, intensive to do it by
8 hand --

9 MR. ABDULAZIZ YOUSEF: Right.

10 DEPUTY COMMISSIONER SCHMIDT: -- than using
11 machinery, it's certainly easier to use machinery, it would
12 appear that it probably be done by hand and result in less
13 disturbance.

14 The other thing that's important, even though it
15 seems on paper as a modest gain or increase in respecting
16 the buffer, that's the most immediate buffer area to the
17 off-site wetland. When you're talking about up by the
18 driveway and all that, that's on the other side of the home
19 and up near the road, that's a significant distance from the
20 off-site wetland, but the most sensitive area arguably is
21 this rear yard area.

22 MR. ABDULAZIZ YOUSEF: Right. And just to --
23 again, this can be a discussion with the client, but just as
24 you've said, it is -- this disturbance is majorly for
25 bringing this up to the current landscaping plan. So if we

1 have a discussion and it's feasible and that's a condition
2 of approval to do this area by hand, I think that's
3 something we would be able to consider.

4 MR. JACOB AMIR: Yeah, that's fine. We don't -- I
5 don't think we need further discussion on it. It's
6 acceptable and reasonable --

7 DEPUTY COMMISSIONER SCHMIDT: Obviously, the new
8 plantings that would go into that area as well --

9 MR. JACOB AMIR: Correct.

10 DEPUTY COMMISSIONER SCHMIDT: -- would be done --
11 performed by hand.

12 MR. JACOB AMIR: Right. Absolutely. Correct.

13 DEPUTY COMMISSIONER SCHMIDT: Okay.

14 BOARD MEMBER DESAI: Following up on that, I think
15 the larger picture is that can you make it a smaller
16 dwelling footprint so that it would be -- not affect any
17 wetland area but just would be into the buffer?

18 MR. JACOB AMIR: I don't know if we can make that
19 --

20 BOARD MEMBER DESAI: I think that's a question for
21 your engineer also.

22 MR. JACOB AMIR: Oh, I'm sorry. I thought you were
23 asking --

24 DEPUTY COMMISSIONER SCHMIDT: Let me ask the
25 question a little bit differently, if I can. The proposed

1 dwelling on this plan is it maxing out what's allowable
2 under our zoning ordinance?

3 MR. JACOB AMIR: I believe so.

4 DEPUTY COMMISSIONER SCHMIDT: So, meaning that this
5 is the maximum -- it would be good to know if this is the
6 maximum --

7 MR. JACOB AMIR: Maximum.

8 DEPUTY COMMISSIONER SCHMIDT: -- sized house that
9 could be built on this lot without variances --

10 MR. JACOB AMIR: That's true.

11 DEPUTY COMMISSIONER SCHMIDT: -- related either to
12 setbacks, FAR, principal building coverage.

13 MR. JACOB AMIR: That's correct.

14 CHAIRPERSON DAVIS: So that makes it a conservative
15 sort of plan.

16 DEPUTY COMMISSIONER SCHMIDT: You're showing the
17 max.

18 MR. JACOB AMIR: Yes, it can't be -- yes, it can't
19 be greater than this.

20 BOARD MEMBER DESAI: So can we request to put into
21 a condition that it would be -- not disturb the actual
22 wetland?

23 DEPUTY COMMISSIONER SCHMIDT: And the wetland
24 doesn't extend onto this applicant's property. The buffer
25 does. But the wetland falls short of the rear property

1 line. So there's no direct disturbance to the wetland in
2 connection with the project.

3 BOARD MEMBER DESAI: Can you mark that or can you
4 show that? Because the 100-foot buffer is marked but where
5 is the wetland?

6 MR. ABDULAZIZ YOUSEF: The wetland itself is
7 basically this line.

8 BOARD MEMBER DESAI: Yeah, it extends --

9 DEPUTY COMMISSIONER SCHMIDT: It comes up right to
10 the property line. Because there's a stonewall sort of and
11 then a --

12 MR. JACOB AMIR: It's an incline.

13 MR. ABDULAZIZ YOUSEF: The wetland does not go
14 beyond this --

15 MR. JACOB AMIR: The stonewall it --

16 ALTERNATE BOARD MEMBER ANDERSON: So it is on the
17 property just barely. It's like di minimis.

18 DEPUTY COMMISSIONER SCHMIDT: Just off the property
19 line.

20 MR. ABDULAZIZ YOUSEF: Yeah.

21 DEPUTY TOWN ATTORNEY MAGANA: Perhaps it's worth
22 looking at the mitigation plan for plantings.

23 ALTERNATE BOARD MEMBER ANDERSON: Oh, that it would
24 show it there?

25 DEPUTY COMMISSIONER SCHMIDT: Oh, on that plan?

1 DEPUTY TOWN ATTORNEY MAGANA: Yeah.

2 CHAIRPERSON DAVIS: So, let me clarify, the
3 property is within the 100-foot buffer.

4 BOARD MEMBER DESAI: Yeah, the whole thing is.

5 DEPUTY COMMISSIONER SCHMIDT: But the wetland --

6 MR. JACOB AMIR: The wetland is not.

7 DEPUTY COMMISSIONER SCHMIDT: Right. The wetland
8 proper doesn't extend into this site. So there's no
9 direct --

10 BOARD MEMBER DESAI: Okay.

11 DEPUTY COMMISSIONER SCHMIDT: -- disturbance within
12 the wetland. I'll say it that way.

13 ALTERNATE BOARD MEMBER ANDERSON: It ends at that
14 stonewall?

15 DEPUTY COMMISSIONER SCHMIDT: Just prior to.
16 Because there's a grade change.

17 MR. ABDULAZIZ YOUSEF: Yeah.

18 DEPUTY COMMISSIONER SCHMIDT: So the wetland is
19 within the low lying area, then there's a slope up, then
20 there's the wall and then there's the lot.

21 ALTERNATE BOARD MEMBER ANDERSON: Got it.

22 BOARD MEMBER DESAI: So what was that green shaded
23 area that was on -- what was the green shaded area into the
24 yard? One of the --

25 MR. ABDULAZIZ YOUSEF: Those were -- those were

1 areas that were steep slopes. If you're referring to --

2 BOARD MEMBER DESAI: Okay. Yeah, okay.

3 DEPUTY COMMISSIONER SCHMIDT: The slope analysis
4 plan, yes.

5 MR. ABDULAZIZ YOUSEF: Right. Those were where we
6 graded more than 15 percent in slope.

7 BOARD MEMBER DESAI: Okay. That's not any
8 landscaping plan?

9 DEPUTY COMMISSIONER SCHMIDT: No.

10 MR. ABDULAZIZ YOUSEF: No.

11 BOARD MEMBER DESAI: Thank you.

12 DEPUTY COMMISSIONER SCHMIDT: Any other questions?

13 ALTERNATE BOARD MEMBER ANDERSON: So -- so back to
14 my question though, it was -- so you would -- you're willing
15 to do hand-work construction only in that zone but not move
16 the limit of disturbance back?

17 DEPUTY COMMISSIONER SCHMIDT: Right. So the limit
18 of disturbance would be modified and there could
19 potentially -- if this board moves forward with a
20 decision -- be a condition that only beyond that interior
21 line I'll call it, or in that space between the two lines,
22 only hand-work shall be performed.

23 ALTERNATE BOARD MEMBER ANDERSON: But it wouldn't
24 impact where the dwelling is situated on the property and
25 keep -- keep things further away from -- from the wetlands

1 buffer?

2 DEPUTY COMMISSIONER SCHMIDT: No, it would just
3 mean that machinery related disturbance, which in the lower
4 right-hand side of this plan could possibly take place, so
5 you could have machinery within 5 feet or 10 feet of the
6 wetland, it would shift that further away to protect that
7 area and only allow for hand-work --

8 DEPUTY TOWN ATTORNEY MAGANA: So minimizing erosion
9 potential.

10 DEPUTY COMMISSIONER SCHMIDT: Correct.

11 DEPUTY TOWN ATTORNEY MAGANA: You'd still have to
12 have erosion controls and everything in place, as required.

13 DEPUTY COMMISSIONER SCHMIDT: Absolutely.

14 MR. JACOB AMIR: And that plan is consistent with
15 the mitigation planting plan. That allows it. It wouldn't
16 -- in other words, restricting to hand, you know, plantings
17 doesn't change the mitigation plan.

18 DEPUTY COMMISSIONER SCHMIDT: It wouldn't result in
19 a modification.

20 MR. JACOB AMIR: It wouldn't result -- exactly.

21 DEPUTY COMMISSIONER SCHMIDT: Understood.

22 BOARD MEMBER DESAI: But as I understand --

23 CHAIRPERSON DAVIS: So --

24 BOARD MEMBER DESAI: Sorry. Go ahead.

25 CHAIRPERSON DAVIS: So, to summarize, just going

1 back to what Emily was saying, it's basically a no on the
2 100-year?

3 MR. JACOB AMIR: I think yes --

4 CHAIRPERSON DAVIS: -- unless --

5 MR. JACOB AMIR: -- as Abdulaziz just --

6 CHAIRPERSON DAVIS: -- within the time that you
7 build it the underlying of the 50 changes to 100.

8 MR. ABDULAZIZ YOUSEF: If it changes, it changes,
9 yeah.

10 CHAIRPERSON DAVIS: Yeah. And yes to hand
11 planting. And you won't be able to -- I think your question
12 was the potential home make a smaller footprint to make it
13 not as encroaching in the buff area.

14 MR. JACOB AMIR: I didn't -- I'm sorry. I don't
15 want to speak over you.

16 CHAIRPERSON DAVIS: Yeah, I'm done.

17 MR. JACOB AMIR: Oh, no, I thought there was a
18 question.

19 BOARD MEMBER DESAI: The concern that we have that
20 we are approving something that it's not anything there but
21 putting a whole new house over there, so mitigate that
22 extensive impact and it's very much concern of our board
23 that we do not create something that is going to be
24 adversely impacted on the already very difficult situation,
25 and I know I could not drive from my house onto the 9A

1 because it's all flooded on Monday. So it is -- it isn't
2 that whatever the smallest things you can manage to do it
3 would be appreciated. So we do not want to approve, or at
4 least as a condition, that you would look into to make it as
5 small and as little impact on wetland buffer.

6 MR. JACOB AMIR: Well, I don't think we can
7 necessarily commit to a sort of vague or an unspecified
8 condition. I will draw back on the design plan which shows
9 the maximum there, and since we are in the buffer, I'm
10 looking, you know, real quickly--

11 CHAIRPERSON DAVIS: Okay. I'm sorry. So the
12 question, and I'll reiterate, from Kirit was whether or not
13 you'd be willing to commit to a smaller footprint on a
14 potential home, and your response to that is at this time
15 unless we're giving you an exact square footage, that's not
16 something you can commit to?

17 MR. JACOB AMIR: I don't think conceptually it's
18 something that can be committed to. And even if you reduce
19 the footprint, I'm not sure how much of a reduction -- how
20 much of an effect it necessarily has, right, because we're
21 in the wetland buffer anyway. So, if we have a -- I'm
22 trying to look real quick at the numbers, but --

23 BOARD MEMBER DESAI: I understand. I want to stop
24 there. It would be less than what is is maximum. That I
25 know. I don't know how many percentages it would be. But I

1 know that if there was no development that would be
2 existing. Now, since you are coming to us and it says the
3 next --

4 CHAIRPERSON DAVIS: So, Kirit --

5 BOARD MEMBER DESAI: -- the one who goes to sell
6 he's going to build it and what is shown here that he can
7 come back and show this is what we approved and so --

8 CHAIRPERSON DAVIS: We can't give -- we cannot have
9 him agree to an unspecified condition.

10 DEPUTY TOWN ATTORNEY MAGANA: No, but you can ask
11 them to indicate what reductions there would be depending
12 upon the size of a particular type of development.

13 CHAIRPERSON DAVIS: But they would be able to give
14 us the results of that whether or not it's an effective
15 result?

16 DEPUTY TOWN ATTORNEY MAGANA: So you can -- your
17 engineer should be able to show a difference in footprint of
18 X size versus Y size and potential impact to storm water
19 runoff, right?

20 MR. JACOB AMIR: Presumably Abdulaziz can do that.
21 I'm just not sure what material result it is. I mean, if
22 you go from a 3,000 square foot to a 2800 square foot house
23 how much of a reduction do you --

24 BOARD MEMBER DESAI: Or say 2,000 square feet.

25 MR. JACOB AMIR: Well, let me --

1 BOARD MEMBER DESAI: I think the discussion I
2 started is based on that -- the CULTEC units that you have
3 and considering that you have to kind of make it a bigger to
4 make it a 100-year flood requirement. So --

5 CHAIRPERSON DAVIS: So I just want to be clear --

6 MR. ABDULAZIZ YOUSEF: If I could ask a question --
7 and, Aaron, please correct me if I'm going off script
8 here -- with the -- you have a wetlands area or wetlands
9 buffer within your property per zoning code it does reduce
10 your buildable area and we -- with that buildable area it
11 reduces -- it further reduces the amount of impervious
12 coverage you could have on site. Per code, I don't know if
13 my screen is still being shown, but the maximum impervious
14 surface coverage you could have on site is approximately
15 37.2 percent and we're way beneath that. We're at 28 --

16 DEPUTY COMMISSIONER SCHMIDT: Right.

17 MR. ABDULAZIZ YOUSEF: -- right now which is --
18 which takes into account the wetlands and the wetlands
19 buffer and the steep slopes reduced in the buildable area.

20 DEPUTY COMMISSIONER SCHMIDT: There's a steep slope
21 reduction due to slopes on the property. However, there's
22 only a reduction with wetlands when it's the actual wetland
23 or watercourse area, not the buffer area.

24 BOARD MEMBER DESAI: That's what my understanding
25 was.

1 MR. ABDULAZIZ YOUSEF: But still to my point, there
2 is a reduction in how much impervious coverage we're putting
3 on site just to further help improve the environmental
4 conditions, which we're showing here.

5 MR. JACOB AMIR: Right. And just thinking of those
6 numbers again, the max is 37.25 percent. We are at
7 28.74 percent. So, it's a pretty significant, we think,
8 reduction.

9 DEPUTY COMMISSIONER SCHMIDT: Right. Other
10 considerations could potentially be, and the board's asked
11 this in other projects, for a driveway, which I imagine
12 would be some sort of impervious surface, if consideration
13 would be given to having it be a pervious surface, either
14 pervious pavers or pervious asphalt surface. I think
15 there's a patio shown in the rear.

16 MR. JACOB AMIR: Okay. That's fine.

17 DEPUTY COMMISSIONER SCHMIDT: You know, you don't
18 get credit -- they still -- under our code, even if it's a
19 pervious material, they don't -- you don't reduce your
20 overall impervious surface coverage, but it's looked upon as
21 an improvement over your standard asphalt by the board,
22 particularly in a buffer area.

23 MR. JACOB AMIR: That's fine.

24 DEPUTY COMMISSIONER SCHMIDT: The same may go -- I
25 think there's a patio in the rear shown.

1 MR. JACOB AMIR: Yes.

2 DEPUTY COMMISSIONER SCHMIDT: I mean, we don't know
3 if that's actually going to be built, but it's shown on the
4 plan as being within the limit of disturbance --

5 MR. JACOB AMIR: Sure.

6 DEPUTY COMMISSIONER SCHMIDT: -- so if some future
7 builder did --

8 MR. JACOB AMIR: That's reasonable.

9 DEPUTY COMMISSIONER SCHMIDT: -- perhaps that could
10 be a pervious --

11 MR. JACOB AMIR: Yes.

12 DEPUTY COMMISSIONER SCHMIDT: -- material as well.

13 MR. JACOB AMIR: That's agreeable, yes.

14 BOARD MEMBER DESAI: And we can put as a -- sort of
15 a -- part of the -- part of the approval, a condition for
16 it.

17 DEPUTY COMMISSIONER SCHMIDT: If the board moved
18 forward with the decision, being that it's on the record
19 now, we would include those as conditions.

20 MR. JACOB AMIR: Right.

21 ALTERNATE BOARD MEMBER ANDERSON: I don't -- I
22 still -- I still don't think you answered my second question
23 whether you --

24 MR. JACOB AMIR: I'll try.

25 ALTERNATE BOARD MEMBER ANDERSON: Right. You've

1 answered some other questions, right, that I didn't ask, but
2 the -- but whether you would shift the limit of disturbance
3 further away from the wetlands.

4 MR. JACOB AMIR: I think Abdulaziz may have
5 addressed that. I don't think that --

6 ALTERNATE BOARD MEMBER ANDERSON: So the answer is,
7 no? I know he addressed the 100-year storm event. I'm
8 totally set on that. He says that would increase the
9 disturbance. My second question was whether they would
10 shift the limit of disturbance away from the wetlands
11 further.

12 MR. JACOB AMIR: Yeah, I think no. I think he may
13 have explained. But, Abdulaziz, if you're on, you want to
14 just...

15 MR. ABDULAZIZ YOUSEF: Sure. I think we -- I'm
16 just trying to pull up the screen again. The -- at best, we
17 could revise the limit of disturbance to shift up to this
18 line. That would definitely be, I guess, an answer to your
19 question and would not negatively impact the developmental
20 -- potential developmental of the lot.

21 However, as we were discussing, one alternative,
22 because work still has to be done in this area as far as
23 developmental, was to do it by hand. That was a good
24 compromise. So we could have the plan marked as every area
25 shaded, we can shade this area and say this area, whatever

1 work to be done here, should be done by hand, because it's
2 majorly landscaping and/or removal of the metal fence or
3 relocating the metal fence.

4 DEPUTY COMMISSIONER SCHMIDT: Right.

5 ALTERNATE BOARD MEMBER ANDERSON: But there would
6 be -- I mean, just construction is not the only potential
7 disturbance, right?

8 DEPUTY COMMISSIONER SCHMIDT: In connection with
9 development. You know --

10 MR. ABDULAZIZ YOUSEF: Right.

11 DEPUTY COMMISSIONER SCHMIDT: -- so that's why we
12 had spoken about doing the hand-work because it's less
13 intensive and disruptive than bringing in machinery.

14 My follow-up question is, the application states
15 that there's -- and we understand that a large portion of
16 this site falls within the buffer, specifically the proposed
17 lot let's call it, 9,453 square feet of buffer disturbance.
18 My question is, would you be able to quickly give an
19 estimate of this area in between the two fences, so to
20 speak, if the -- if that was only to be intruded upon by
21 hand for purposes of relocating planting and installing new
22 planting, can that area be quantified?

23 MR. JACOB AMIR: Yeah, I think so.

24 DEPUTY COMMISSIONER SCHMIDT: I mean, is it a
25 couple hundred square feet? Is it --

1 MR. JACOB AMIR: Oh, I don't --

2 MR. ABDULAZIZ YOUSEF: Let me quickly look at it
3 and get back to you.

4 DEPUTY COMMISSIONER SCHMIDT: I think Mr. Yousef
5 can probably --

6 MR. JACOB AMIR: Yeah, it's good to frame that
7 number.

8 DEPUTY COMMISSIONER SCHMIDT: The other thing would
9 be, Mr. Yousef, if you could pull a dimension from the limit
10 of the wetland, the extent of the wetland, to now what would
11 be the proposed limit of disturbance, is it an additional
12 three feet? Is it an additional 10 feet?

13 DEPUTY TOWN ATTORNEY MAGANA: I just wanted to
14 remind everyone that we still have two applications and we
15 only have about 40 minutes left.

16 DEPUTY COMMISSIONER SCHMIDT: We do. So, I'd like
17 to give Mr. Yousef an opportunity, just so that Ms. Anderson
18 and other board members and the public are aware of, you
19 know, is this a modest, you know, increase or an
20 improvement. You know, is it a couple feet? Is it 10 feet?

21 MR. JACOB AMIR: Right.

22 DEPUTY COMMISSIONER SCHMIDT: Is it substantial?

23 MR. JACOB AMIR: Right. I think -- Abdulaziz, I
24 think you're making that calculation. So, while he is, do
25 we want to just talk about the mitigation planting plan and

1 those proposed trees that are in that --

2 DEPUTY COMMISSIONER SCHMIDT: Yes, if you would.

3 MR. JACOB AMIR: Yeah, let's do that. Because that
4 should be tackled fairly easily.

5 So, just for quick reference, there's a -- I'm
6 sorry.

7 DEPUTY COMMISSIONER SCHMIDT: Go ahead. I'm sorry.

8 MR. JACOB AMIR: There's a forever easement that
9 affects two feet of the southerly boundary line. It runs
10 the area of the Ardsley Estates. It prohibits man-made
11 structures, buildings and trees but not shrubs or hedges.
12 So, on the mitigation planting plan, we're calling it the
13 existing residence, at the southeast corner there is a
14 proposed relocation of green giant trees in kind of an
15 L-shape --

16 DEPUTY COMMISSIONER SCHMIDT: Uhm-hum.

17 MR. JACOB AMIR: -- right? Now, right now, at the
18 vertical of that L-shape are hedges. And so what this
19 proposed is is to have trees along that L-shape. But
20 because of the forever easement you can't have trees on the
21 horizontal part of that -- of that L, that corner L. So,
22 what we're proposing, just simply, is to just put some
23 hedges in there. There are hedges proposed to the right of
24 it. So, just put the same hedges there instead of trees.

25 DEPUTY COMMISSIONER SCHMIDT: Okay. And my last

1 question is, you indicated over the phone this afternoon
2 that you may be having a phone conference with the counsel
3 representing -- did that take place? Were you able to speak
4 to any of that?

5 MR. JACOB AMIR: I did. I actually met with the
6 counsel for Mr. Rosenbaum and Ardsley Estates who told me
7 the same thing, that he's advising or has been retained to
8 advise them. He has not submitted anything. He's not
9 provided me with anything. It was a very short, lovely
10 conversation. I've known him for many years, and he's just
11 advising them.

12 DEPUTY COMMISSIONER SCHMIDT: Okay. Thank you.

13 CHAIRPERSON DAVIS: Okay. So, if there's no other
14 comments from the board, I'd like to -- well, he's still
15 doing the measurement?

16 DEPUTY COMMISSIONER SCHMIDT: Yeah. And I think,
17 you know, there's -- it sounds like there's some information
18 that the board has asked for that could probably get
19 submitted in a timely fashion. There is some slight
20 modifications to the plan, to the landscape plan as
21 discussed. All that said, it's ultimately up to the board
22 where it decides to go from here. But we have received the
23 comments and the testimony this evening from the public. It
24 doesn't seem like anything further is going to be added
25 tonight in that respect.

1 CHAIRPERSON DAVIS: And that being said, as I said,
2 he's working on getting that measurement.

3 MR. ABDULAZIZ YOUSEF: I have the numbers.

4 CHAIRPERSON DAVIS: You have it?

5 DEPUTY COMMISSIONER SCHMIDT: Thank you.

6 CHAIRPERSON DAVIS: So I rather -- yeah, let's just
7 do that.

8 MR. ABDULAZIZ YOUSEF: So, it would be, just to
9 those two lines, the other line, it would be approximately
10 10 feet from the property line, so that would 10 feet
11 potentially from the wetland area.

12 DEPUTY COMMISSIONER SCHMIDT: So 10 feet further?

13 ALTERNATE BOARD MEMBER ANDERSON: Further away?

14 MR. ABDULAZIZ YOUSEF: Further away, yeah.

15 DEPUTY COMMISSIONER SCHMIDT: Okay.

16 MR. ABDULAZIZ YOUSEF: And it would be
17 approximately 800 square feet.

18 CHAIRPERSON DAVIS: 800 square feet.

19 DEPUTY COMMISSIONER SCHMIDT: Okay.

20 MR. ABDULAZIZ YOUSEF: Approximately.

21 DEPUTY TOWN ATTORNEY MAGANA: Also, just to the
22 planning board, I know we have some newer members, if the
23 hearing were to be closed and there were still outstanding
24 comments or questions from the planning board members what
25 we've done in the past, and could do, is the applicant can

1 address them at a work session before any discussions of
2 conditions or anything else occurs.

3 CHAIRPERSON DAVIS: Which I think there's some
4 documents that will be prepared in terms of the conditions
5 and having them written out, but for right now, we need to
6 go to vote on whether or not we're going to close the public
7 hearing and leave the record open until the 28th of July.

8 DEPUTY COMMISSIONER SCHMIDT: Right. Our next
9 meeting -- we typically meet on the first and third
10 Wednesdays of the month, but due to a conflict with the town
11 board, our next meeting -- we are not meeting on the fifth
12 Wednesday of this month, rather we're meeting on the first
13 Monday of August, which is August 4th.

14 CHAIRPERSON DAVIS: So, do I have a motion to close
15 the public hearing and leave the record open until
16 July 28th?

17 ALTERNATE BOARD MEMBER ANDERSON: So moved.

18 CHAIRPERSON DAVIS: May I have a second?

19 BOARD MEMBER WEINBERG: Second.

20 CHAIRPERSON DAVIS: All in favor? Aye.

21 BOARD MEMBER DESAI: Aye.

22 BOARD MEMBER WEINBERG: Aye.

23 BOARD MEMBER PYNE: Aye.

24 ALTERNATE BOARD MEMBER ANDERSON: Aye.

25 CHAIRPERSON DAVIS: All opposed?

1 DEPUTY COMMISSIONER SCHMIDT: So, just for everyone
2 in the room, typically the board would leave a written
3 record open for one week from the period of closure. The
4 board has decided to leave the record open for a period of
5 12 days. Any additional written submissions or comments
6 that either the applicant or members of the public or their
7 advisory counsel wish to submit within that period, you're
8 free to do so. That will all be considered, much like the
9 testimony at these public hearings are considered, before
10 the board makes any decision on the project or the
11 applications associated with this project.

12 Thank you.

13 MR. JACOB AMIR: Thank you.

14 CHAIRPERSON DAVIS: Thank you.

15 MR. ABDULAZIZ YOUSEF: Thank you.

16 DEPUTY COMMISSIONER SCHMIDT: And we'll close the
17 public hearing session.

18 CHAIRPERSON DAVIS: All right. So now may I have a
19 motion -- a motion to close the public hearing, please.

20 BOARD MEMBER WEINBERG: So moved.

21 CHAIRPERSON DAVIS: Second?

22 BOARD MEMBER DESAI: Second.

23 CHAIRPERSON DAVIS: All in favor? Aye.

24 BOARD MEMBER DESAI: Aye.

25 BOARD MEMBER WEINBERG: Aye.

1 BOARD MEMBER PYNE: Aye.

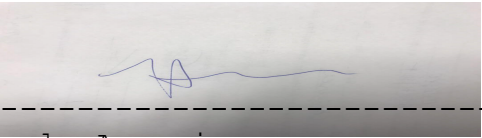
2 ALTERNATE BOARD MEMBER ANDERSON: Aye.

3 (Whereupon, the Public Hearing/Discussion was
4 concluded.)

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6 * * *

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

8
9 Certified to be a true and accurate transcript of
10 the Public hearing of the Greenburgh Planning Board Meeting
11 proceedings held on July 16, 2025, in person taken by the
12 undersigned, to the best of her ability.

13
14  X
15 Nicole Ameneiros
16 Official Court Reporter
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