

1 ZONING BOARD OF APPEALS - 4/26/2007

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5 VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK

6 ZONING BOARD OF APPEALS

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9 Held April 26, 2007 at 8:00 p.m.,

10 Seven Maple Avenue, Hastings-on-Hudson, New

11 York 10706-1497.

12

13 P R E S E N T:

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Arthur Magun, Chairman

15 David Deitz, Board Member

Stanley Pycior, Board Member

16 Denise Wagner Furman, Board Member

(In Absentia)

17 Brian P. Murphy, Board Member

Sheldon A. Sorokoff, Alternate Member

18

Deven Sharma, Building Inspector

19 Marianne Stecich, Board Counsel

20

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22

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Nina Purcell, RPR

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2 CHAIRMAN MAGUN: This is
3 the zoning board of appeals meeting of
4 April 26, 2007. A couple of items to
5 discuss before we launch into the actual
6 agenda: First of all, the agenda has been
7 revised so that the issue of Anthony
8 Tarricone and the request for a rezoning
9 application is going to go first on the
10 agenda, because that item has been
11 postponed a number of times for various
12 reasons. So we will discuss that
13 application first.

14 Second, the next case on the
15 agenda, case No. 2-07, Mirjana Alilovic,
16 Euro Deli, is not going to be discussed
17 tonight. Is there anyone here to discuss
18 that case? That is going to be adjourned
19 also to another meeting, because the
20 planning board did not act on the
21 application. And without a recommendation
22 from the planning board with regards to
23 the view preservation, we are not going to
24 discuss that tonight. So if anyone is
25 here for that application, we are not

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2 going to hear that.

3 Then we are going to proceed with
4 the items on the agenda -- I apologize; I
5 just found out about that -- as is listed,
6 and we usually end the meeting at 10:45.
7 And we will stick to that, and we will try
8 to be conscious of the time and get
9 through things. Hopefully everything will
10 be quick, but one never knows. But that
11 will sort of be the outline.

12 And then one final comment with
13 regards to the first application we are
14 going to discuss, the Tarricone
15 application, the board has really not
16 formally heard the revised application,
17 the zoning board of appeals, though the
18 applications have been around for awhile.
19 So I'm not sure that the zoning board --
20 and we can discuss this later -- is going
21 to be prepared to offer a recommendation
22 tonight. But we will certainly listen to
23 whoever wants to speak, hear the
24 information, and then we can decide what
25 we want to do. Any questions from the

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2 board about the agenda issues?

3 MR. MURPHY: No.

4 CHAIRMAN MAGUN: Okay. So
5 we are going to begin with the
6 presentation from Anthony Tarricone with
7 regard to proposed rezoning of four
8 properties at Saw Mill River Road.

9 MR. DAVIS: I'm Robert
10 Davis. I'm the attorney for Mr. Tarricone
11 and JAC, who are two of the four
12 petitioners before the board. If I may, I
13 will take approximately ten minutes of
14 your time. This is our second --

15 CHAIRMAN MAGUN: As you
16 probably know, and I want to re-emphasize,
17 we really haven't heard the presentation
18 since the change from MR-C to MR-O
19 designation was requested.

20 MR. DAVIS: That would be my
21 emphasis.

22 CHAIRMAN MAGUN: Also, the
23 board, one of our regular board members,
24 is not here. So the board changes a
25 little bit, so I would approach this as a

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2 pretty fresh application --

3 MR. DAVIS: That's my
4 intent.

5 CHAIRMAN MAGUN: -- and
6 information.

7 MR. DAVIS: This is our
8 second appearance before your board, but
9 since we were last before you last
10 November, we have significantly revised
11 the petition to address concerns expressed
12 by neighbors and the planning board.
13 Since then there has been some extensive
14 community support in favor of the revised
15 proposal, and also the Westchester County
16 planning board has rendered two favorable
17 recommendations.

18 In terms of changes, first the
19 properties involved have been
20 significantly reduced. The original
21 petition, which you may have seen, was to
22 rezone the entire neighborhood. By the
23 time it was before you, I believe it had
24 been reduced to nine properties. And that
25 included properties on Edison Avenue and

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2 Holly Place, including some which did not
3 front on Route 9A, Saw Mill River Road.

4 In response to the concerns
5 expressed by neighbors and the boards
6 about possible commercial intrusion into
7 the residential portion of the
8 neighborhood, the interior properties have
9 been completely eliminated, and now there
10 are only four properties totalling about
11 one and a third acres that are included in
12 the petition, all of which have frontage
13 on 9A and which are the properties most
14 affected by commercial development on 9A
15 and therefore we would submit the most
16 appropriate to be designated for a
17 somewhat greater development than
18 permitted under the existing 2R
19 designation.

20 It is significant that two of the
21 four properties are already developed for
22 commercial use. So that only two
23 properties, the other two, will be altered
24 under the proposed rezoning. In fact, our
25 research has indicated that all of these

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2 properties historically were zoned
3 commercial. The Tarricone property is on
4 the north corner of 9A and Holly Place and
5 extends only to Edison Avenue across from
6 the other corner of Holly and 9A. And the
7 use of that site for the proposed rezoning
8 under our revised plan for an additional
9 self-storage building would be subject to
10 a special permit from your board, planning
11 board site plan approval and architectural
12 review board approval, and subject to
13 extensive bulk and use restrictions which
14 we have proposed.

15 Our clients own each of the
16 properties adjoining self-storage to the
17 north on 9A also to the west on Holly
18 Place. The owners of the only two
19 properties across the street to the south
20 also favor the self-storage use, as do the
21 owners of the properties to the east
22 across the street in Greenburgh on 9A.
23 One of those is also owned by our clients.

24 The owners of the only other
25 property which would be developed under

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2 our proposal on the south corner of Holly
3 Place and 9A which currently has a
4 two-family house which is subdivided will
5 add only one additional one-family or
6 two-family house and has stipulated as a
7 condition of planning board subdivision,
8 again, in deference to the neighbors'
9 fears of greater commercial development,
10 to a restrictive covenant to prohibit
11 commercial development in the future.

12 With respect to the two existing
13 commercial properties to be rezoned, the
14 existing self-storage would remain as is
15 and become conforming. What is called the
16 Borelli property to the north of that is
17 along 9A with the plumbing business and
18 the Nextel site. That would be rendered
19 more nearly conforming, and the owner
20 would have the opportunity in the future
21 to convert to a conforming use such as an
22 office under the zoning that we are
23 proposing.

24 With respect to the requested
25 rezoning and response to the concerns of

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2 the neighbors and the planning board that
3 the MR-C designation, which was originally
4 before you, would allow more intensive
5 development than permitted in the 2R
6 district, the MR-C designation has been
7 withdrawn and replaced with the less
8 intensive and more restrictive MR-O
9 designation.

10 So not only is this prior concern
11 irrelevant due to the limitation to the
12 four properties on 9A, two of which are
13 already commercially developed, but the MR
14 use and bulk requirements are much more
15 restrictive and consistent with the
16 existing conditions throughout the
17 neighborhood.

18 It should be noted that other than
19 the petitioning properties, the entire
20 neighborhood is nonconforming under 2R,
21 and the 2R requirements really bear no
22 relation to the reality of that
23 neighborhood. We have provided a chart
24 that you have received in the past setting
25 forth the nonconforming bulk figures for

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2 the lots in the neighborhood, as well as
3 an appraiser's opinion that the MR-O
4 designation will not have a negative
5 impact on property values in the
6 neighborhood.

7 We have also provided a chart that
8 compares the bulk requirements of 2R,
9 MR-C, MR-O and the average existing
10 conditions in the neighborhood for the
11 nonconforming lots that comprise it. The
12 more restrictive aspects of MR-O in the
13 revised plan as compared to MR-C are the
14 following: MR-O permits only 50 percent
15 lot coverage versus 80 percent in MR-C.
16 MR-O requires a 10 foot front yard where
17 MR-C requires no front yard.

18 MR. MURPHY: Do me a favor
19 and go more slowly when you go through
20 these.

21 MR. DAVIS: Thank you for
22 bringing that to my attention. MR-O
23 permits only 50 percent lot coverage
24 versus 80 percent in the MR-C. MR-O
25 requires a 10 foot front yard whereas MR-C

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2 has no front yard requirement. And the
3 average neighborhood front yard existing
4 is 11.6 feet. MR-O allows the building
5 height of only 35 feet versus 40 feet in
6 the MR-C. MR-C requires a lot size of
7 only 2500 square feet for any use. MR-O,
8 however, requires 5,000 square feet for a
9 two-family dwelling plus 1500 square feet
10 for each additional dwelling unit and 3500
11 square feet for any other use.

12 The average lot in the neighborhood
13 is 5200 square feet, and many of those
14 contain two-family homes. MR-O also has
15 greater lot width, rear yard and side yard
16 requirements as well. We have done a
17 whole chart of this, and we can provide
18 you with additional copies after the
19 meeting if you need those, because they
20 are easier to read than listening to me as
21 well.

22 It is also important to note that
23 in addition to the more restrictive bulk
24 requirements a number of the uses
25 permitted as of right in MR-C are only

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2 permitted in MR-0 by special permit,
3 including dwellings for more than three
4 families and the very limited commercial
5 uses that are permitted in those zones.

6 So in addition to limiting the
7 properties now only to those on 9A, and
8 also to the more restrictive MR-0 rather
9 than MR-C requirements, petitioners have
10 also added more restrictions on the
11 proposed text change to permit
12 self-storage.

13 The self-storage use under the
14 revised proposal would now be permitted
15 only by special permit, and thus it would
16 be subject to approval by three boards.
17 In addition to the more restrictive bulk
18 requirements of the MR-0 district in
19 general, self-storage would be subject to
20 even more stringent restrictions including
21 the following which we have added to our
22 proposal.

23 Access could only be from a state
24 road -- that is in this case 9A -- and not
25 from neighborhood streets. Any yard

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2 adjoining the street including Holly Place
3 and 9A for self-storage would have to be
4 15 feet, which would exceed the general
5 MR-0 requirements of 10 feet for front
6 yards and 8 feet for side yards. And we
7 would also propose -- and this arose from
8 a discussion with the planning board --
9 permitting reduced or no setbacks only
10 between the adjoining lots with
11 self-storage on both of them as would
12 occur here. That would enable us to move
13 the new building that we are proposing at
14 least 30 to 35 feet from Holly Place, move
15 it up against the existing building and
16 also provide more screening on the corner
17 of Holly Place so we could have a setback
18 three times the average in the
19 neighborhood.

20 It would be large compared to the
21 neighborhood. We could put an awful lot
22 of screening in there. Also, we would
23 propose that the self-storage use have a
24 minimum lot size of 12,500 square feet,
25 not 3500 as otherwise required in the MR-0

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2 for non-residential uses. And, again,
3 building coverage for the self-storage
4 would be limited to 50 percent maximum as
5 provided in the MR-0. And there are many
6 other stringent special permit conditions
7 as well in the proposed amendment which we
8 have given you which we have modeled after
9 an ordinance elsewhere for self-storage
10 use. Finally, to the extent practical
11 the petitioner is proposing a more
12 residential style appearance for any new
13 self-storage building, certainly than the
14 existing.

15 It is significant to note that the
16 proposed amendment, even when it was
17 prerevision with the MR-C was approved by
18 the Westchester County planning board
19 which fully reviewed the original proposal
20 and stated in pertinent part:

21 We support the proposed zoning map
22 amendment to change the existing what was
23 then eight parcels along Saw Mill River
24 Road from two family 2R to multi-family
25 residential/commercial (MR-C). The

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2 properties in question are currently
3 nonconforming to the 2R regulations due to
4 their small lot sizes and would conform to
5 the MR-C zone. The MR-C zone would also
6 serve as a mixed used residential business
7 transition zone between the industrial
8 uses and existing residents. Further, we
9 have no objection to the addition of
10 self-storage units as a permitted
11 principal use in the MR-C zone.

12 This is back in January, that first
13 recommendation. And the county
14 specifically recognized what it called the
15 real opportunity cost of lost tax revenues
16 associated with any delay in the proposed
17 rezoning, and that would be based on our
18 current self-storage. At least 150,000 a
19 year would be projected. Recently the
20 county conformed its support of the
21 revised proposal as well in reiterating
22 its recommendation as to the revisions.

23 Now, the planning board has looked
24 at this and while we respectfully disagree
25 with the planning board's comments on the

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2 prior and revised proposals, we submit
3 that we have addressed those concerns.
4 With respect to the concern that the
5 property to be rezoned as part of a
6 residential neighborhood, of the four
7 properties to which the rezoning is now
8 limited, two are already fully developed,
9 we have said, commercially and two also
10 directly abut 9A. And it is commercial
11 development.

12 As the rezoning is no longer sought
13 for any lots in the interior of the
14 neighborhood, the residential character of
15 the neighborhood will not be undermined.
16 Albeit, we do note there is a
17 nonconforming junkyard today in the middle
18 of the neighborhood. While the main
19 gateway to the residential portion of the
20 neighborhood is probably better described
21 as Tompkins Avenue, rather than 9A from
22 Holly Place, the Holly Place corner, which
23 is also already affected by all the
24 commercial development in the immediate
25 area would now be characterized merely by

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2 dwellings on one corner, the residentially
3 designed self-storage building on the
4 other, and both of which will help screen
5 the existing commercial uses on 9A. So we
6 would submit that there can't be any
7 longer a reasonable contention that the
8 revised proposal would "submerge the
9 residential character of the
10 neighborhood," as the planning board
11 originally feared.

12 With respect to the village vision
13 plan's goal of preserving residential
14 areas, for all of the reasons we have
15 noted we think the modified plan does
16 that. In particular, it prevents these
17 properties from falling into non-owner
18 occupancy and disrepair due to the impact
19 of the commercial development on 9A and,
20 as noted by the county, it provides an
21 appropriate transitional buffer protecting
22 the residential interior of the
23 neighborhood from the commercial exterior.

24 Notably, the vision plan was also
25 concerned with the tax burden on Hastings

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2 citizens and referred to 9A as Hastings'
3 back door and as a dense heavily traveled
4 urban strip.

5 Any concerns about the differences
6 in the use and bulk requirements in
7 regulations between 2R and MR-C also is no
8 longer relevant because, again, the
9 amended proposal is limited to only four
10 properties, two of which are already
11 commercial. The proposals for the other
12 two are residential and self-storage
13 respectively.

14 The MR-O district is much more
15 restrictive and closer in its provision
16 both to the 2R and, more importantly, to
17 the existing conditions, than the MR-C,
18 notwithstanding that the 2R regulations
19 bear no actual relationship to the
20 existing conditions in the neighborhood
21 which, other than the petitioning
22 properties, is 100 percent nonconforming.
23 And there are now substantial additional
24 administrative review, use and bulk
25 restrictions which have been added to the

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2 proposed self-storage use.

3 The planning board's concern about
4 having more than one zoning classification
5 in a relatively compact area as detracting
6 from the cohesiveness of the neighborhood
7 and being inconsistent with zoning
8 principles should now also be rectified.

9 The fact is that the properties which
10 adjoin 9A are in different situations from
11 the properties which do not. And the
12 revised proposal simply recognizes the
13 difference between the two areas.

14 It is typical, as you know,
15 throughout the county to have a more
16 intense zoning district along a
17 significant commercial corridor such as 9A
18 with residential zoning to the interior
19 and to the rear. And there are many
20 relatively small and adjoining districts,
21 zoning districts, throughout this village.

22 While there may have been somewhat
23 different considerations originally in
24 formulating the MR-O district and MR-C
25 district for the downtown area just down

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2 the street here -- and that was only a
3 couple of years ago, three years ago --
4 the current proposal is completely
5 consistent with the stated primary intent
6 of the MR-O district as a transitional
7 zone between commercial and residential
8 neighborhoods which preserves residential
9 areas while encouraging but not requiring
10 compatible commercial uses in a
11 transitional area.

12 The planning board offered no basis
13 for its prior opinion that a self-storage
14 use which serves primarily residents for
15 the storage of their household and
16 personal affects would be incompatible
17 with the other permitted business uses in
18 the zone, particularly since in this day
19 and age it is virtually almost accessory
20 to residential use. Particularly, in this
21 instance, it would have substantial
22 restrictions. It would be designed with
23 residential style architecture. It would
24 screen other commercial uses. It would
25 have no access within the neighborhood.

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2 And it would generate far less traffic
3 than many permitted uses. And the county
4 planning board, of course, saw no
5 inconsistency.

6 The current larger storage use has
7 demonstrated itself as a clean and quiet
8 use in the neighborhood, and the added
9 restrictions that we proposed will help
10 ensure consistency with the permitted uses
11 both in the MR-O zone and the actual uses
12 in the neighborhood.

13 The planning board's prior
14 contention that zoning amendments should
15 not be enacted to meet the needs of an
16 individual property owner independent of
17 the needs of the district as a whole we
18 submit is misplaced.

19 CHAIRMAN MAGUN: I just
20 want to say. We haven't really been
21 following the planning board that
22 carefully. I wouldn't waste too much time
23 going through all that.

24 MR. DAVIS: The only reason
25 I do that -- I understand that. I do it

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2 somewhat pre-emptively because the general
3 concerns that they raised have been
4 reflected throughout the process. So I
5 wanted to address it.

6 CHAIRMAN MAGUN: I think
7 that only happened a few days ago.

8 MR. DAVIS: Well, no, no.
9 We have been before the planning board --

10 CHAIRMAN MAGUN: Their
11 determination was just recently, is that
12 correct?

13 MR. DAVIS: Well, they made
14 a determination back in December on the
15 original plan.

16 CHAIRMAN MAGUN: On the
17 original.

18 MR. DAVIS: Actually, we've
19 been before them four times.

20 CHAIRMAN MAGUN: The zoning
21 board really is not in close contact with
22 the planning board. So you don't have
23 to --

24 MR. DAVIS: No, I
25 understand. I'm addressing some of the

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2 issues with it only by dint of the fact it
3 came up through the planning board, and
4 there are questions that others on your
5 board may raise as we go along.

6 The fact is, there has always been
7 multiple petitioners. There still are
8 three unrelated petitioners. It is not
9 just Mr. Tarricone as it is sometimes
10 stated. And the different portions of
11 this neighborhood quite simply are not
12 similarly situated.

13 Issues have been raised from time
14 to time with the fact that the village is
15 in the beginning stage possibly of
16 considering a new comprehensive plan. And
17 in that regard it bears noting that this
18 is a unique area from the village
19 separated from the rest of the village by
20 the parkway.

21 The proposal involves about
22 one-tenth of one percent of the entire
23 village and really has no effect on 99.9
24 percent of the village, except, we would
25 submit, a beneficial financial impact. It

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2 is really hard to anticipate that any
3 comprehensive study could come up with
4 significantly different or more reasonable
5 proposals for these particular properties
6 which recognize the existing conditions
7 and promote conformity.

8 On that issue, again, it is in
9 packages you have received in the past and
10 was covered in great depth at the village
11 board public hearing in January. I tried
12 to give the boards outlines of our
13 presentations, so if you are so inclined
14 you can review them.

15 But what the planning board did
16 recognize and what the county did
17 recognize, the county planning board, is
18 that the proposal would be a significant
19 source of increased revenue to the
20 village. Albeit, in the planning board's
21 minds, other factors outweighed that. We
22 believe that the modified proposal
23 significantly mitigates or eliminates all
24 of the factors that have been discussed
25 along the way as warranting against the

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2 proposal. And we would respectfully
3 request your recommendation and your
4 report to the village board of your views
5 on what the zoning ordinance refers to as
6 the desirability and practicability of the
7 proposal.

8 So I thank you for your time and
9 would like to have Mr. Tarricone take you
10 through the actual physical aspects,
11 graphic aspects, of the proposal that will
12 help you, I think, understand it.

13 MR. MURPHY: Just one
14 question, can you remind me, who are the
15 other petitioners?

16 MR. DAVIS: The other
17 petitioners are in his corporate capacity
18 Mr. Borelli who owns the -- I believe it
19 is A.J. Hawk is his corporate name. That
20 is the property with Nextel and the
21 plumbing business north on 9A. And the
22 other, and then you have Mr. Tarricone's
23 corporation that owns the existing
24 self-storage. You have the individual
25 Tarricone family that owns the corner

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2 property where the residence is, and then
3 the fourth petitioner is the Shea family
4 which owns the property on the southerly
5 corner of Holly Place.

6 MR. MURPHY: Thank you.

7 MR. TARRICONE: Thank you.

8 This is what is existing right now, Saw
9 Mill River Road. You guys have seen this
10 before. I'm going to take it down.

11 Good evening. I'm Anthony
12 Tarricone, and I thank all of you for
13 coming here and listening to us. I
14 appreciate it. I know it is a lot of
15 work. I know I owe a debt of gratitude to
16 my neighbors and also the other people
17 that have come on our behalf.

18 Originally we have demonstrated
19 wide community support for this proposal.
20 There are over 200 signed petitions and
21 E-mails or letters in favor of the
22 proposal and 14 against it. The neighbors
23 who are closest and thereby affected most
24 dramatically have spoken in favor and
25 submitted petitions in favor of the

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2 change. Village trustees are in
3 possession of the signed E-mails and
4 letters in favor of this proposal. As
5 such, I haven't asked any of the
6 supporters to come here.

7 I would like to take a brief moment
8 to cover the changes of the proposal since
9 the original submission. I'd like to
10 explain how we have addressed the concerns
11 of the neighbors and the various boards
12 that we have been in front of. I will
13 summarize the net effect of the changes.

14 Originally there were nine people
15 who signed the petition in favor of
16 changing the zone: One, two, three, four,
17 five, six, seven, eight, nine
18 (indicating). We listened to what people
19 were concerned about, about having more
20 business in the interior of the
21 neighborhood. We then eliminated five
22 properties in the interior of the
23 neighborhood thereby leaving four
24 properties which will be changed from 2R
25 to MR-0. So we have eliminated three:

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2 One, two, three, four, five, and left
3 these: One, two, three, four. These
4 properties all have frontage on 9A. This
5 is 9A. You have this, by the way,
6 submitted to you previously.

7 The area of changes is
8 substantially smaller thereby limiting
9 potential effects, negative or positive,
10 to the balance of the neighborhood. The
11 Shea family has submitted in writing a
12 stipulation that would deed restrict their
13 property to residential uses allowed
14 within the MR-0 zone upon the approval of
15 a subdivision to build a one or two-family
16 house on their 9,250 square foot piece of
17 property which fronts Saw Mill River Road.
18 This will complete the screening of 9A
19 from the neighborhood and eliminate the
20 concerns of future development on the
21 site.

22 That is this piece (indicating).
23 We are talking about subdividing this,
24 putting a single family or two-family
25 house on that. These are already

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2 commercially developed. That is the
3 Nextel. That is the existing
4 self-storage. That is my own house that I
5 have lived there for 18 years. This isn't
6 something I just dreamt up and bought a
7 house. I've lived here 18 years. I'm
8 looking to expand my existing business in
9 this direction. And this property, the
10 Sheas, have been here for -- Mr. Shea is
11 here -- probably 70 years.

12 In any event, another interesting
13 fact is that in 1934 these properties were
14 zoned business, and then they were changed
15 back to residential in 1939, and then back
16 to business again in 1950, and then back
17 again in 1952 to Residence B. And I don't
18 know when they changed it again. So it
19 has been back and forth.

20 The neighboring municipalities of
21 Greenburgh and Yonkers, which are directly
22 across the street -- this is Greenburgh
23 right here (indicating) and Yonkers starts
24 here -- actually, this is the outline for
25 Yonkers -- are zoned light industrial

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2 which is Greenburgh and commercial which
3 is Yonkers.

4 As far as the forefathers and
5 initial plan are concerned, this parcel of
6 land located on 9A/Saw Mill River Road has
7 always been considered both commercial and
8 residential as evidenced by the various
9 zone changes. We pulled some information
10 from the village plan written in 1997
11 which refers to 9A, which is this road
12 here, as the back-door to Hastings. It
13 talks about 9A becoming a dense, heavily
14 traveled urban strip as a result of
15 development of surrounding communities
16 which Hastings has no control over.

17 So then you wanted to take a look
18 at the differences between the MR-C and
19 MR-O as compared to 2R. Again, this was
20 submitted to you already before. And Bob
21 went over it pretty slowly. But we have
22 submitted to the board the regulation
23 comparison of the 2R zone to MR-C and
24 MR-O. This is 2R, MR-C, MR-O
25 (indicating).

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2 The bottom line is if you exclude
3 the four petitioning properties from this
4 application, not one piece of land in the
5 2R zone meets the current zone. So the
6 proposed MR-0 actually matches existing
7 conditions better than the existing zone
8 of 2R.

9 The proposed MR-0 zone has a 10
10 foot front yard setback requirement and an
11 8 foot side yard setback requirement. We
12 have increased the side yard setback
13 requirement to 15 feet on all sides that
14 adjoin a road. For the record, 59 percent
15 of the existing properties in the area
16 have an existing front yard setback of 10
17 feet or less.

18 MR. DEITZ: Let me ask you,
19 why are there so many properties that are
20 nonconforming? Is it because of the size
21 and the front setback? It is that rather
22 than use, is that correct?

23 MR. DAVIS: Well, in several
24 instances it is use. In three instances
25 it is use. With respect to the existing

1 ZONING BOARD OF APPEALS - 4/26/2007
2 self-storage, the Borelli property, and
3 what is called the junkyard Cash
4 Automotive, I think there is also some
5 nonconformities that assert the issue
6 between bulk and use in terms of more
7 multiple family houses on smaller lots
8 than would be permitted, significantly
9 smaller. But you are right. In almost
10 all instances the average existing bulk
11 requirement, whether it be front yard,
12 side yard, lot size, rear yard, are
13 smaller than the 2R would provide and
14 significantly so. Because, for example,
15 the average existing lot in the
16 neighborhood is 5200 square foot whereas
17 in the 2R you need 7500 square feet for a
18 single family and 10,000 for a two family.

19 MR. DEITZ: Thank you.

20 MR. TARRICONE: This map is
21 actually actual. The lot lines that you
22 see are real. For example, this lot line,
23 this house, is too close, same thing here.
24 This one actually is a negative lot line,
25 goes over the lot line. That's the

1 ZONING BOARD OF APPEALS - 4/26/2007

2 junkyard.

3 In any event, we were asked to
4 present a maximum coverage conceptual plan
5 at our last meeting. That is what you are
6 looking at here and you have in front of
7 you. We have prepared two conceptual
8 plans that give the board a feel for what
9 could be done if the zone was changed.
10 For conceptual purposes only, we moved the
11 proposed building to the adjoining
12 self-storage lot line which is what you
13 see here. That is the lot line. We moved
14 the building completely over, which would
15 leave a 35 to 30 foot setback. We jogged
16 the building so it wouldn't look like a
17 monolithic expanse, so it is jogged. So
18 that's 35 feet deep. That's 35; that's 30
19 feet deep.

20 MR. MURPHY: 35 from Holly
21 Place?

22 MR. TARRICONE: From Holly.
23 And the average is ten or eleven, and
24 there is 59 percent or less than ten. In
25 any event, it would leave a green space of

1 ZONING BOARD OF APPEALS - 4/26/2007
2 approximately 7,000 square feet. The
3 green space area would be larger than any
4 property in the area with the exception of
5 the junkyard located in the middle of the
6 neighborhood.

7 This area that we leave after this
8 thing is built is a larger piece of land
9 than any one of these properties except
10 for this one.

11 MR. MURPHY: How about
12 parking?

13 MR. TARRICONE: We are going
14 to marry it up to the existing
15 self-storage, so we are utilizing the
16 existing lot up here. Access and entrance
17 is on 9A over here. So we have no view of
18 cars, business or anything from the
19 interior of the neighborhood.

20 MR. MURPHY: What is the
21 setback from 9A then to the proposed front
22 of the building?

23 MR. TARRICONE: I'm not
24 exactly sure. I can't tell from this
25 look. I think it is 15 foot at the

1 ZONING BOARD OF APPEALS - 4/26/2007
2 shortest, because the curb is here. So it
3 is probably 15 here and probably somewhere
4 around 20 or 25 here.

5 MR. MURPHY: Thank you.

6 MR. TARRICONE: You have
7 that map in front of you. That's it. We
8 also prepared another rendition,
9 rendering, whatever you call it, which
10 shows what the building would look like
11 using the agreed upon setbacks over here,
12 and the building being the maximum that it
13 could be based on those setbacks.

14 We have also placed the building on
15 the lot using proposed setback
16 requirements and the maximum lot coverage
17 ratios. Again, this is conceptual and can
18 be changed as needed according to the
19 board's recommendations. The point is
20 changing the zone on these four properties
21 will not change the character or the value
22 of the neighborhood. This is the
23 conclusion of Ned Ferrarone, a real estate
24 valuation expert. Mr. Ferrarone spoke at
25 the planning board meeting last week and

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2 answered questions relating to this
3 finding.

4 Another concern was that the zone
5 was too small in terms of area to be
6 changed or considered a separate zone.
7 However, this is the norm for Hastings, as
8 evidenced by the zoning map, over ten
9 similar-sized zones throughout the
10 village. This is what we are asking for.
11 It is over here.

12 MR. DAVIS: These are non-
13 park zones. There are a lot of pocket
14 park zones, but these are actual use
15 zones.

16 MR. TARRICONE: These are
17 businesses or uses. These are all
18 separate zones. There is a little one
19 here. There is one here. They are all
20 over the place. The point is that the
21 area shaded in red represents small
22 pockets throughout the village. And
23 that's pretty much the norm for Hastings.

24 MR. MURPHY: How much of
25 the -- how many of the small zones are in

1 ZONING BOARD OF APPEALS - 4/26/2007

2 a residential area?

3 MR. DAVIS: I think quite a
4 few of them.

5 MR. TARRICONE: They all
6 abut. They all adjoin. I have the
7 regular zone here if you would like to see
8 it. This is 10R. Here is MR-1.5. This
9 is all zoned 10R as well. And that is
10 a -- purple is a general industrial right
11 here. This is light industrial. This is
12 R7.5 right here.

13 MR. DAVIS: Also take a look
14 at the existing MR-O and MR-C which I
15 believe are on the right-hand corner which
16 adjoin more single family residential
17 uses.

18 MR. TARRICONE: Exactly.
19 Here is R1.5 right in a two family. It is
20 actually a very similar application. And
21 the use of a transitioning zone from a
22 commercial road to a residential area is
23 common practice across the county. This
24 is how municipalities deal with heavily
25 traveled commercial roads.

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2 By way of example, look at Central
3 Avenue from Yonkers through Scarsdale and
4 into White Plains, or better yet, look at
5 9A Saw Mill River Road from Yonkers to
6 Albany, a recognized truck route, a
7 commercial road. Just look at any map and
8 that's how it is defined.

9 The neighboring communities have
10 embraced this fact, and that this is a
11 commercial road and have zoned it
12 accordingly. And they enjoy taxes
13 generated from the businesses on it.

14 The bottom line is 9A Saw Mill
15 River Road will always be a commercial
16 route. We can call it anything you want.
17 But it will remain a commercial truck
18 road. We hear talk about a comprehensive
19 plan. That is a good thing. However,
20 somewhere in the plan there must be a way
21 to generate taxes other than residential
22 housing. This is a perfect solution to
23 the plan.

24 Westchester County planning board
25 reviewed our proposal twice and wrote two

1 ZONING BOARD OF APPEALS - 4/26/2007
2 letters of support for the zone change. I
3 quote under the heading "appropriate use
4 of zoning tools." This is a quote: "We
5 support the proposed zoning map amendment
6 to change the existing eight parcels along
7 Saw Mill River Road from two family 2R to
8 multi-family residential/commercial, MR-C.
9 The properties in question are currently
10 nonconforming to the 2R zone regulation
11 due to the small lot size and would
12 conform to the MR-C zone. The MR-C zone
13 would also serve as a mixed use
14 residential/business transition zone
15 between industrial uses and existing
16 residences. Further, we have no objection
17 to the addition of self-storage units as a
18 permitted principal use in the MR-C
19 district."

20 When we amended our proposal to
21 four properties with the MR-O zone,
22 Westchester County planning board
23 reaffirmed their position in a letter
24 dated March 15, 2007 stating: "While the
25 proposed zoning amendments have been

1 ZONING BOARD OF APPEALS - 4/26/2007

2 revised, we continue to support these
3 actions for the reasons expressed in our
4 previous letter."

5 Applicably, the Westchester County
6 planning board has a handle on the
7 appropriate zoning and some foresight of
8 the future for the county. Although the
9 village, although the vision plan is not
10 an adopted village document, it has served
11 as a guideline. The vision plan wants to
12 preserve the retail downtown in the
13 village. This will prevent the slow death
14 of the village retailers which has
15 happened across the nation. On the flip
16 side, if the 9A corridor is developed with
17 retail it will siphon off the retail
18 village stores who will eventually perish.

19 So the desired effect is to
20 increase net tax revenue on 9A while
21 limiting retail and traffic impact. Our
22 proposal does exactly that. It does not
23 siphon off local retailers from the
24 village. It has a low impact on traffic
25 and the village infrastructure with high

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2 net tax revenue and one additional single
3 or two-family house.

4 The underlying bottom line
5 responsibility for the village boards is
6 balancing what is best for the village in
7 the long run. So Saw Mill River Road 9A
8 is a commercial road. This has been
9 recognized as far back as 1934 with the
10 exact properties in question zoned
11 business and reaffirmed as a dense,
12 heavily traveled urban strip in the 1997
13 vision plan. We submit to you that the
14 request is reasonable, as it addresses the
15 concerns of the various boards and the
16 local neighborhood and, most importantly,
17 is valuable and viable for the village of
18 Hastings.

19 To summarize, the total of four
20 properties now apply for MR-0 zone
21 designation, all of which are situated
22 with frontage on Saw Mill River Road. Two
23 of these are already commercial, the
24 Nextel dealership and existing
25 self-storage. And these properties will

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2 have no physical change.

3 So the net result is removal of one
4 home which is placed with another along
5 Saw Mill River Road, further completing
6 the screening of the Route 9A Saw Mill
7 River Road from the residential
8 neighborhood, and the addition of a
9 self-storage building, residentially
10 designed and screened, next to the
11 existing building which it will partially
12 screen.

13 We have demonstrated huge community
14 support for this proposal with over 200
15 signed petitions and/or E-mails against
16 14. The neighbors that are closest and
17 thereby affected most dramatically have
18 spoken in favor and submit petitions in
19 favor of the change. The change will
20 afford the village much needed tax relief
21 on a commercial road while preserving the
22 neighborhood behind it having little to no
23 impact on the surrounding area.

24 The proposed transition zone is
25 typical across the county as further

1 ZONING BOARD OF APPEALS - 4/26/2007
2 outlined in the two recommendations by
3 Westchester County department of planning.
4 This is a win/win proposal. And we
5 respectfully ask that you provide a
6 positive recommendation to the board of
7 trustees. Thank you. Do you have any
8 questions?

9 CHAIRMAN MAGUN: This is a
10 long presentation. I want to make sure
11 there isn't anyone else in the room who
12 came tonight with regards to this. And
13 then before we do that maybe the board has
14 a couple of quick questions. And then we
15 can decide whether we want to move on,
16 consider you in the future. Go ahead.

17 MR. MURPHY: Mr. Tarricone,
18 could I look at the conceptual plan again,
19 please, for a minute?

20 MR. TARRICONE: Which one?
21 The one that slides it over, this one?

22 MR. MURPHY: Yes. But can
23 you just explain to me on the Shea's
24 property what the difference is?

25 MR. TARRICONE: This is the

1 ZONING BOARD OF APPEALS - 4/26/2007
2 Shea property. The existing Shea property
3 is just this single building here and the
4 house here. There is actually a driveway
5 here and another two driveways here. We
6 removed the driveways to add some green,
7 put the driveway over here -- this is
8 Edison -- and then entered behind this
9 house for a house over here, which is on
10 the Saw Mill River Road.

11 CHAIRMAN MAGUN: He gains a
12 house.

13 MR. TARRICONE: He gains a
14 house.

15 CHAIRMAN MAGUN: Right.

16 MR. MURPHY: How is the
17 size -- if I understand it correctly, the
18 proposal is to agree to a restrictive
19 covenant for residential use with the
20 conditions to permit or improve two
21 sublots?

22 MR. TARRICONE: No, it is a
23 one lot subdivision.

24 MR. DAVIS: Two lots where
25 there is now one.

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2 MR. MURPHY: Yes. But would
3 the size of those two lots be conforming
4 or nonconforming?

5 MR. DAVIS: The way that
6 would work is the -- if I remember the
7 figures correctly, the existing lot is
8 9400 and change, which is less than the
9 required square footage for a single
10 family house in a 2R zone. Currently the
11 existing house is two family.

12 If he -- the Sheas have one of two
13 choices absent a variance. They can
14 either subdivide it as it is depicted, and
15 they would have enough for a single family
16 house which is -- would be in the MR-0
17 zone you need 5,000 for a two family. You
18 need 3500 for a single family. So they
19 would have enough to do that as of right.

20 If they wanted the second house, as
21 they are contemplating to be a two family,
22 they would have to do one of two things.
23 Either they would split the lots a little
24 more evenly and have a one or two area
25 variance in lot size, or because -- what

1 ZONING BOARD OF APPEALS - 4/26/2007
2 is more likely because they own the other
3 property to the rear that is sharing the
4 driveway, they could make a relatively
5 simple lot line change and pick up the
6 additional square footage that would be
7 needed for a second two-family home.

8 MR. SHARMA: The existing
9 house is not a two family.

10 MR. TARRICONE: No. This is
11 7500 square foot lot. This is 9250 or so.
12 So if the zoning was changed to MR-0, you
13 could have a two family -- 5,000 foot
14 two-family house that is already
15 pre-existing, in addition to a single
16 family house on 3500 square foot which is
17 typical for what is going on here.

18 MR. DAVIS: That's what I
19 said. Existing on the corner is existing
20 two family.

21 MR. TARRICONE: Yes.

22 MR. MURPHY: Right. The
23 proposal is for another two family.

24 MR. DAVIS: The proposal is
25 to have zoning which would allow under one

1 ZONING BOARD OF APPEALS - 4/26/2007
2 of the scenarios that I have stated to
3 either have a single family or a two
4 family. Either one would be permitted
5 under this optional -- options I have
6 given.

7 MR. TARRICONE: Well, no.
8 You need to get a variance.

9 CHAIRMAN MAGUN: It is not
10 clear it would be allowed. It would be up
11 in the air. Yes.

12 Are there any other questions from
13 the board before -- are there any others?
14 Is there anyone in the audience who came
15 tonight with regards to this proposal? I
16 want to give everyone a chance to speak.
17 No one else. I'm sorry. Please come to
18 the microphone.

19 MS. WRAY: Thank you.

20 CHAIRMAN MAGUN: Your name
21 and address.

22 MS. WRAY: I'm Linda Wray.
23 I live at 37 Edison Avenue. I'm opposite
24 where the proposed -- well, a little
25 diagonal opposite where the proposed

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2 driveway from the Sheas' residence would
3 come out. I'm actually the last house on
4 Edison.

5 CHAIRMAN MAGUN: Were you
6 here in December?

7 MS. WRAY: I was here in
8 December. I'm concerned -- my big concern
9 is this is a big corner. The Sheas live
10 there. They are promising to keep houses
11 there. But if the Sheas go away and you
12 have changed the zone, what do we end up
13 with in our neighborhood, with a driveway
14 that comes down into Edison and no access
15 on Saw Mill River Road.

16 If commercial moves in there, the
17 commercial moves into my neighborhood
18 right there across the street. And I've
19 just spent everything I own to redo that
20 house. My family has lived there for 60
21 years.

22 MS. STECICH: Just
23 clarifying the one point, that in part the
24 Sheas have agreed that if the rezoning
25 goes into effect, that they would put deed

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2 restrictions on that property, that it
3 could only be --

4 MR. WRAY: Only while they
5 are there.

6 MS. STECICH: It runs with
7 the land. So it means any future owners.
8 The only thing that is a little unclear to
9 me tonight, my understanding was they had
10 agreed to put the deed restrictions on if
11 the rezoning went through. Tonight I
12 think I heard from Mr. Davis that they
13 agreed to put the deed restrictions on if
14 not only if the zoning went through but if
15 they got subdivision approval.

16 MR. DAVIS: No, that isn't
17 quite what I said. I mentioned
18 subdivision approval. What I said is that
19 could be the mechanism by which the town
20 would ensure it would go on, because for
21 any of the proposals there, they would
22 have to apply for subdivision approval and
23 the town could hold them to their
24 stipulation. That would be the mechanism
25 for the town to ensure that that occurred.

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2 But they are willing to do that regardless
3 upon the rezoning.

4 MS. STECICH: Okay. So I'm
5 just -- so that a deed restriction would
6 run with the land. You would have to make
7 sure it was recorded.

8 CHAIRMAN MAGUN: Is there
9 anyone else? Ma'am?

10 MS. CARUSO: Hi. I'm
11 Carolyn Caruso. I live at 45 Marion
12 Avenue, which is on the corner of Holly
13 and Marion. I would just like to clarify
14 a few points. I also was here in
15 December, and would just like to state
16 that it wasn't out of the goodness of any
17 of the applicant's heart that property
18 owners were removed or petitioners were
19 removed from this. It was that the
20 property owners that were involved saw
21 this scale of the project and what would
22 be allowed and opted out themselves.
23 There was only one property that the
24 petitioners owned that they removed.

25 So I think, you know, to say they

1 ZONING BOARD OF APPEALS - 4/26/2007
2 addressed the concerns of the residents is
3 a little misleading. I wanted to point
4 that out. Also, I consider this down
5 zoning. When you have a residential
6 neighborhood and you now put a commercial
7 building next to a residential home, you
8 can have a valuation expert testify or a
9 realtor. There is no way it cannot affect
10 your property value.

11 This is down zoning at its best,
12 and the planning board even agreed that it
13 would affect the property values in the
14 neighborhood. And so I mean, I think to
15 us that is a huge disadvantage for those
16 of us who live in the neighborhood.

17 Also, I'd like to say that the
18 planning board did unanimously recommend
19 to not go forward with this amendment both
20 times, both proposals, and I think their
21 reasons were very valid and addressed the
22 concerns that our residents in the
23 neighborhood had.

24 And, you know, you keep saying this
25 property is on Saw Mill River Road. It is

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2 not. It is on Holly Place. The property
3 sits well below Saw Mill River Road. We
4 are buffered from Saw Mill River Road.
5 And by allowing this change, it now brings
6 the commercial aspect further into the
7 neighborhood.

8 I don't see how anybody looking at
9 it knowing the property can say that this
10 is now a Saw Mill River Road issue. It is
11 not. It is further coming down Holly
12 Place. This is a street on Holly Place,
13 where children play. It is one of the few
14 neighborhoods that kids can still go
15 outside and have a game of stick ball
16 every night. It is just a neighborhood
17 filled with children where they play.

18 And that to say that this fronts
19 Saw Mill River Road, it does, but it is
20 set way down from Saw Mill River Road.
21 And you know, the favor of the people and
22 the favor of this proposal, the community
23 support that they have mentioned, none of
24 them live in our area. There are 21 homes
25 in this area. 19 of those homeowners are

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2 opposed to the change. And I think that
3 speaks volumes. The people that have
4 spoken previously here live on Oxford and
5 Velard, wherever, Ashley. I wonder if
6 this proposal was in their neighborhood
7 how quickly they would be here to speak on
8 behalf of it.

9 The last thing I would like to say
10 is Mr. Tarricone owns the commercial
11 property next-door to the storage facility
12 previously which was the Borelli property.
13 He owns commercial property across the
14 street. You want to now take a
15 residential home and change it into a
16 commercial property to benefit one person.
17 There are four applicants, but the change
18 is really only for one homeowner. By
19 doing that you would devastate a
20 neighborhood of 19 other homes. Thank
21 you.

22 CHAIRMAN MAGUN: Is there
23 anyone? Thank you. Is there anyone else
24 who came who wanted to speak with regards
25 to this? Yes, sir.

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2 MR. GARJULO: Sal Garjulo
3 (ph), one Holly Place, Hastings. I've
4 been in this village 73 years. I see a
5 city here --

6 CHAIRMAN MAGUN: Sir, can
7 you take the microphone with you? There
8 is a portable microphone.

9 MR. GARJULO: I see a city
10 here that doesn't belong here. All I've
11 heard was storage facility, Saw Mill River
12 Road, but nothing about encroaching on
13 Holly Place. There are 19 homes that are
14 against this. Now, I left pictures here.
15 Do you have them?

16 MR. SHARMA: No, I don't.

17 MR. GARJULO: There are
18 pictures that I left.

19 MS. WRAY: That was the
20 planning board.

21 MR. GARJULO: We left at the
22 planning board.

23 MR. SHARMA: We don't have
24 any pictures. I tried to call them.

25 MR. GARJULO: This storage

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2 place is 25 feet higher than every
3 two-family house in that neighborhood on
4 Holly Place. If you see it, it is 40 feet
5 long. Now he is doing exactly the same
6 thing only he is coming -- encroaching on
7 Holly Place and 19 homes. And to me that
8 is ridiculous. It is not only down zoning
9 everything; it is just ridiculous, because
10 19 people against two, it is really two.
11 It is him and Shea. And I can't see why
12 he can't put a duplex two-family house
13 instead of knocking his down, put a two
14 family on his lot and get a variance for
15 Shea for his two other houses, and that's
16 the problem. That's the whole thing. You
17 don't have to change any zoning.

18 CHAIRMAN MAGUN: Okay.

19 Thank you.

20 Are you finished, sir, or do
21 you want to say more?

22 MR. GARJULO: And there is
23 nothing more to say than what it looks
24 like.

25 MR. SOROKOFF: Are you --

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2 CHAIRMAN MAGUN: We want to
3 ask you a question.

4 MR. SOROKOFF: Have the 19
5 people you referred to or the 19 families,
6 have they written to the board? Do we
7 have anything in writing that says they
8 are against this?

9 MR. GARJULO: We were at
10 five, six meetings now.

11 MR. SOROKOFF: I wasn't at
12 those meetings.

13 CHAIRMAN MAGUN: Why don't
14 you step back? Okay. It's okay.

15 MS. WRAY: This is the only
16 copy that we still have.

17 MR. GARJULO: Another
18 thing --

19 CHAIRMAN MAGUN: You need to
20 speak with the microphone. I'm sorry.

21 MR. GARJULO: They keep
22 calling my place a junkyard. I have a
23 home there. My father had a home and my
24 mother left it to us, 73 years. Now I
25 have garages there, and I was in the

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2 contracting business. I had my equipment
3 which I had for awhile. I'm not doing it
4 now, but I'm contemplating on building.

5 CHAIRMAN MAGUN: Okay.

6 MR. GARJULO: And I'm not
7 building anything like that.

8 CHAIRMAN MAGUN: Thank you.
9 I'd like to ask the board how they would
10 like to proceed. My concern is we have a
11 lot of other items on the agenda tonight.
12 I think we have heard the presentation. I
13 don't personally think that I would be
14 ready tonight to make a recommendation
15 without reviewing, because this is really
16 the first time we have seen the new plans.

17 I wanted to hear how other board
18 members felt with regards to proceeding.
19 I would wonder whether we might adjourn
20 further discussion of this issue. We have
21 heard the public. We have heard the
22 presenters. How does anyone else feel
23 about it? Otherwise, I don't think we can
24 get through.

25 MR. MURPHY: I wanted to go

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2 back.

3 CHAIRMAN MAGUN: Before you
4 do questions, I want to get the sense of
5 the board.

6 MR. PYCIOR: Since we have
7 not seen this particular set of plans,
8 especially with the proposed 30 to 35 foot
9 setback, and I know that Holly Place does
10 slope down to the west, I would like to go
11 back out and with these plans in hand try
12 to envision the height. Yes.

13 CHAIRMAN MAGUN: David?

14 MR. DEITZ: I'm concerned
15 about this petition which I suppose went
16 to the planning board. And this is a
17 petition that refers to the prior
18 proposal, the MR-C proposal. And it
19 doesn't have a date. And the proposal has
20 been changed. So I think it would be
21 valuable to the board to know whether
22 these same people are all opposed to the
23 current proposal as well as the prior
24 proposal.

25 CHAIRMAN MAGUN: Okay. You

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2 also would like a little more time?

3 MR. DEITZ: Yes, I would,
4 to adjourn for that reason. Sorry. I
5 would like the opportunity to go through
6 the pictures here and the schematics which
7 we have not had before. But also
8 recognize the fact that this is an awfully
9 delayed process and sooner or later we are
10 going to have to vote on this.

11 CHAIRMAN MAGUN: It sounds
12 like we can take one or two questions, but
13 it sounds like what we will do is adjourn
14 further discussion of this issue to the
15 next meeting. Brian, do you want to ask a
16 question?

17 MR. MURPHY: Yes. Marianne,
18 the discussion on the proposed subdivision
19 of the Shea property, is that right? Do I
20 have it right?

21 MS. STECICH: Yes. It is
22 not part of the rezoning proposal. The
23 reason it came up is the planning board
24 said, Okay, we understand the rezoning.
25 But if we rezone it, we want some idea of

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2 how this is going to be built out. And so
3 they hired an architect and we met with
4 them. And these plans were developed for
5 the planning board to see how it would be
6 built out before any subdivision would
7 happen. Then we have to go through a full
8 subdivision review.

9 MR. MURPHY: Right.

10 MS. STECICH: There
11 certainly is an issue about the
12 subdivision. Not only would they have to
13 go through the subdivision review, I think
14 they need a variance, because I don't
15 think there is enough property divided in
16 half. Although apparently there is the
17 property in back, the one not on Saw Mill
18 River Road. I guess it is on Edison.

19 MR. DAVIS: Yes, it is on
20 Edison.

21 MS. STECICH: The one on
22 Edison apparently is bigger than it needs
23 to be. It is all owned by the same
24 person. So they could fool around with
25 it. It is possible it could be subdivided

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2 without a variance. But in any event, it
3 is not part of this application. It is
4 only before the board so that the planning
5 board can see what this would look like
6 built out.

7 MR. DAVIS: May I take ten
8 seconds?

9 CHAIRMAN MAGUN: Yes. You
10 took ten minutes which was almost 40.

11 MR. DAVIS: It can be
12 subdivided if it was another single family
13 home. There are only 21 properties in the
14 entire neighborhood. 14 people have
15 objected. At least three people off the
16 top of my head were voluntarily removed
17 from the petition, because at least two of
18 them were Mr. Tarricone and Mr. Shea's
19 property. And Mr. Garjulo does run a
20 nonconforming business. Thank you.

21 CHAIRMAN MAGUN: So I think
22 we have had an opportunity to hear the
23 presentation. I'd like to adjourn further
24 discussion of this application to our next
25 meeting. I don't know that we need to

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2 close the public hearing part of it.

3 Counsel, how do you feel about that?

4 MS. STECICH: Well, it
5 is --

6 MR. DEITZ: I would prefer
7 not to close it because the issue was
8 raised about this petition, and I don't
9 know whether all of those people would
10 still have the same point of view.

11 CHAIRMAN MAGUN: That's
12 fair. So we'll finish discussion of this
13 application presently and unless the
14 applicant has some strong feelings that
15 they would like to raise now, we will
16 adjourn this until the next meeting.

17 MR. DAVIS: No, we are very
18 appreciative of the time you have taken
19 with us. Can you tell us the date?

20 CHAIRMAN MAGUN: I think it
21 is May 24, the fourth Thursday in May.

22 MR. DAVIS: Thank you very
23 much.

24 CHAIRMAN MAGUN: I don't
25 think we need to vote on that. We will

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2 agree to adjourn. It looks like there is
3 no objection to that. We are going to go
4 on to now to the next application on the
5 agenda, which is case -- why don't we take
6 a two-minute break.

7 (Recess taken.)

8 CHAIRMAN MAGUN: We are
9 going to resume our deliberations here
10 with case No. 4-07, R. Kenyatta and Lisa
11 Punter, 4 Glenn Place. And the applicant
12 is before us requesting rear yard and side
13 yard variances. Sir, you are going to
14 present the application?

15 MR. KURTH: Yes, sir.
16 Members of the board, my name is Peter
17 Kurth. I'm the architect for Mr. Punter.
18 He is here. He just stepped out. You may
19 recall that we were here in January, and
20 at that time we requested three variances.
21 One was to convert an existing dilapidated
22 screen porch into a year-round sunroom,
23 and that application was approved by the
24 board at that time.

25 The second two requests were for

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2 two series -- two distinct decks, a lower
3 level deck and a main level deck. And we
4 requested a variance into the rear setback
5 line and the side line, and those
6 variances were denied. At that time we
7 asked the board if they would consider a
8 scaled back proposal, and that met with a
9 favorable response. We therefore went
10 back to the drawing board, scaled back,
11 and redesigned.

12 To refresh your memory, you will
13 recall that the basic hardship here is
14 that the homeowner has a property with a
15 very steeply sloping rear yard, very
16 unusable. Originally we proposed a lower
17 level deck in the original application.
18 In the present application we have
19 completely removed the deck in its
20 entirety.

21 We currently have a single deck
22 which is expansion of the existing deck,
23 again, scaled back in size from the
24 original deck. And for your convenience I
25 have the photos here. I also have a flip

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2 chart of the proposed application as
3 compared to the original application. We
4 scaled the original decks. The lower
5 deck, again, has been removed. That deck
6 encroached into the side yard line. The
7 present deck is exactly flush with the
8 house, and that presently requires an
9 eight inch variance. In effect we are
10 lining up flush with the house whereas
11 before we were projecting further into the
12 side yard line.

13 Again, as I mentioned last time,
14 the single deck now projects no further
15 than the existing one does. We are
16 requesting a variance of 14 feet when 30
17 feet is required.

18 Also, to show you the plan of the
19 now single deck, originally the board had
20 some concern that the original deck on
21 this level projected way out 26 and a half
22 feet to the original line. We pulled that
23 back so the entire deck projects no more
24 than 14 feet from the existing house. So
25 at the extremity, again, to refresh your

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2 memory, we had a series of steps to bring
3 the homeowner from the existing deck
4 revised sunroom down to grade. That
5 stairway projects no further than the
6 existing spring porch.

7 To just clarify for the board, some
8 of the calculations, the original
9 dilapidated deck is extremely small, very
10 unusable. That deck is 150 square feet.
11 The original application for the two decks
12 was a total of 12 --

13 CHAIRMAN MAGUN: Why don't
14 we skip the original application?

15 MR. KURTH: I'm emphasizing,
16 sir, we have scaled back the proposal 63
17 percent.

18 CHAIRMAN MAGUN: Okay.

19 MR. KURTH: I want to pass
20 these sheets around for your convenience.

21 CHAIRMAN MAGUN: If you
22 could go ahead with the actual
23 measurements, because I have questions
24 about that.

25 MR. KURTH: Yes, sir. The

1 ZONING BOARD OF APPEALS - 4/26/2007
2 deck as constituted now projects 14 feet
3 from the existing house and lines up
4 exactly with the line of the separation
5 between the sun porch and the existing
6 deck. We request this variance, because
7 we feel that the deck as constituted is
8 really the minimum size that would be
9 usable for simple recreation, dining, et
10 cetera. And, again, as emphasized, this
11 deck effectively is their rear yard with
12 the kitchen here and the dining room here,
13 with the French doors coming out. This is
14 the usable part of the deck that relates
15 to the existing house. The grade below is
16 well over 12 feet below.

17 We feel that the scaled back
18 proposal of the main deck, again, first
19 floor deck and the complete elimination of
20 the lower deck, which makes sense that the
21 board has some trouble with, is a
22 reasonable request that we respectfully
23 request of the board at this time.

24 CHAIRMAN MAGUN: Okay.
25 Mr. Kurth, thanks. I have a couple of

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2 factual questions to clear up some things,
3 because I wasn't sure I understood this.
4 Can you go through the exact dimensions of
5 the current proposal, the deck proposal?

6 MR. KURTH: Well --

7 CHAIRMAN MAGUN: You keep
8 talking about -- tell me the length of and
9 the width, because it is nowhere on any of
10 the diagrams that I can see.

11 MR. KURTH: On our plan we
12 relate to existing dimensions. It is an L
13 shape that wraps around existing 6 foot
14 appendage poles of the deck which does
15 comply with zoning. So it is 14 feet by
16 approximately -- we didn't do the math.
17 The area is --

18 CHAIRMAN MAGUN: There are
19 no measurements anywhere.

20 MR. KURTH: I would say it
21 is --

22 MR. SHARMA: Do you want a
23 scale?

24 MR. KURTH: If you have it,
25 please. The width of the deck is 24 feet.

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2 At the widest point is 14 and in front of
3 the proposed kitchen it is 8 feet.

4 MR. PERRY: Which deck are
5 we talking about?

6 MR. KURTH: We only have one
7 deck.

8 CHAIRMAN MAGUN: So it is
9 14 feet wide and the length from the --

10 MR. KURTH: 24 feet.

11 CHAIRMAN MAGUN: 24 feet.

12 MR. KURTH: By 14.

13 Subtracting this 6 foot appendage here,
14 the kitchen bump out is 12 and a half by
15 6. Yes.

16 CHAIRMAN MAGUN: Second
17 question that I had, which I didn't
18 understand the setbacks, the setback lines
19 that you have drawn on your proposal.

20 MR. KURTH: On the site
21 plan?

22 CHAIRMAN MAGUN: On the
23 site plan, yes, and how you arrived at
24 that.

25 MR. KURTH: What we did,

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2 sir, is --

3 CHAIRMAN MAGUN: You need a
4 30 foot rear yard setback.

5 MR. KURTH: Yes.

6 CHAIRMAN MAGUN: And as I'm
7 looking at the line you drew and I'm
8 trying to measure it, it doesn't seem like
9 30 feet. It seems like less.

10 MR. KURTH: Oh, no. The
11 line drawn is the 14 foot line.

12 CHAIRMAN MAGUN: You have a
13 setback line, this line.

14 MR. KURTH: That is the 30
15 foot line.

16 CHAIRMAN MAGUN: Yes. So
17 that's 30 feet here. But it doesn't --
18 you have one line -- the angle of the
19 lines are -- is changing so that -- excuse
20 me, miss. You're going to have to tell me
21 who you are and why you are whispering in
22 his ear. He has a microphone.

23 MS. RODOWSKI: My name is
24 Paula Rodowski (ph). I work for
25 Mr. Kurth. And the setbacks are variable

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2 because of the shape of the lot, because
3 it is a nonconforming size deck lot.
4 There is a formula in the zoning code that
5 reduces the required side of the setback
6 because of the shape of the lot, and so
7 these were the setback lines as determined
8 by the surveyor originally.

9 CHAIRMAN MAGUN: So you
10 used that old whatever --

11 MS. RODOWSKI: Whatever.

12 CHAIRMAN MAGUN: You are
13 using the 30 percent formula.

14 MS. RODOWSKI: Yes. That is
15 why it is less than 30 foot setback.

16 MR. KURTH: And the proposed
17 with the steps are at the most extreme
18 closest distance to the rear property line
19 is 14. That's how we got the 14 feet.

20 MR. MURPHY: How high are
21 the steps?

22 MR. KURTH: The steps are 4
23 foot 6 inches.

24 MR. PYCIOR: When you gave
25 dimensions of the deck as 14 feet, that is

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2 just the deck?

3 MR. KURTH: That's correct.

4 Plus there are the steps that go down.

5 That's correct, sir.

6 CHAIRMAN MAGUN: Okay. So
7 that was my -- I was trying to understand
8 how you got to the setback lines. Any
9 other questions from the board with regard
10 to Mr. Kurth's presentation?

11 MR. MURPHY: Yes. Another
12 question on the setback line. Because of
13 the angle of the setback line, the deck
14 of -- the proposed deck that is out on
15 that comes out to the side of the house?

16 MR. KURTH: The side here?

17 MR. MURPHY: Yes, on the
18 right side.

19 MR. KURTH: On the right
20 side the required is 12 feet. And we
21 lined it up exactly flush with the house
22 which apparently is 8 inches
23 nonconforming.

24 MR. MURPHY: I understand.

25 But given the rear yard setback line on

1 ZONING BOARD OF APPEALS - 4/26/2007

2 that right edge of the deck, how far is
3 that side of the deck in making an
4 incursion into the 30 foot setback?

5 CHAIRMAN MAGUN: Which
6 side?

7 MR. MURPHY: The right side.

8 MR. KURTH: It is 8 inches.

9 MS. RODOWSKI: Not to the
10 side. From here to here.

11 MR. KURTH: We need a
12 different scale for that.

13 MS. RODOWSKI: We need a
14 bigger scale.

15 MR. KURTH: That appears
16 again roughly to be about 8 feet.

17 MR. SHARMA: Seems to be
18 about 10 feet from the edge of the steps.

19 MR. KURTH: Yes.

20 MR. MURPHY: 10 feet to the
21 edge of the steps.

22 MR. KURTH: From this line
23 to here, 4 foot 6 step is about 5 foot 6
24 or 10 feet.

25 MR. MURPHY: That's what I'm

1 ZONING BOARD OF APPEALS - 4/26/2007

2 interested in.

3 MR. SHARMA: Assuming the
4 line is drawn correctly from this distance
5 is about 10 feet.

6 CHAIRMAN MAGUN: Which
7 line?

8 MR. SHARMA: The setback
9 line, assuming it is drawn correctly. So
10 this distance here from the corner of the
11 steps to the line here is 10 feet.

12 MR MURPHY: Down to the edge
13 of the steps.

14 CHAIRMAN MAGUN: Okay.

15 I had one or two other
16 questions. I'm trying to understand this.
17 When we look at your elevations on page
18 A-6, do you have those elevations? The
19 right -- what you label as the right side
20 elevation, so just to make sure I'm
21 understanding this correctly, when you
22 look at that right side elevation, there
23 are three different railings. Let's start
24 with the top one, the top railing, the
25 bottom elevation. So that railing, what

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2 is that railing doing there?

3 MR. KURTH: That simply is a
4 decorative railing above the bump out of
5 the kitchen.

6 CHAIRMAN MAGUN: That's on
7 top of the kitchen?

8 MR. KURTH: We call it a
9 decorative railing.

10 CHAIRMAN MAGUN: Is somebody
11 going to be on that roof?

12 MR. KURTH: No.

13 CHAIRMAN MAGUN: That's just
14 decorative?

15 MR. KURTH: That's just
16 decorative.

17 CHAIRMAN MAGUN: Then the
18 railing below that, that is the railing
19 that goes around the deck, is that
20 correct?

21 MR. KURTH: That is
22 definitely correct.

23 CHAIRMAN MAGUN: And then
24 the railing below that in the drawing,
25 that is actually the railing --

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2 MR. KURTH: Way beyond --

3 CHAIRMAN MAGUN: -- way
4 beyond --

5 MR. KURTH: -- the
6 connecting link between the sunroom --

7 CHAIRMAN MAGUN: The sunroom
8 and the deck.

9 MR. KURTH: That is a
10 required safety measure.

11 CHAIRMAN MAGUN: I wanted
12 to make sure I was understanding that.
13 Any other questions from the board? Is
14 there anyone here tonight with regards to
15 this application? Ma'am, come to the
16 microphone and state your name and
17 address.

18 MS. LEWIS: My name is Diane
19 Lewis. I am at 36 Fairmont, which is on
20 the corner of Glenn and Fairmont who, by
21 the way, I have never met. I have lived
22 there three years.

23 CHAIRMAN MAGUN: Where do
24 you live?

25 MS. LEWIS: On the corner of

1 ZONING BOARD OF APPEALS - 4/26/2007

2 Fairmont and Glenn Place.

3 CHAIRMAN MAGUN: So that
4 is -- that does border this property?

5 MS. LEWIS: Yes, it is right
6 next-door. Well, I think their house is
7 about 12 feet from my house. And I
8 just -- I have never seen the plans. My
9 husband was here. William Jacobs was here
10 for the last meeting. I'm -- I mean, this
11 is the first time I am seeing it, so I
12 just wanted to see what was happening
13 next-door. In other words, I look at this
14 deck right here, the one -- I live at this
15 deck right here. This is my kitchen.

16 CHAIRMAN MAGUN: You are on
17 the east side.

18 MS. LEWIS: I'm on the east
19 side of the house. So this is the first
20 time I am seeing this. I don't actually
21 see where is the actual new -- I just
22 wanted to see the new --

23 MR. KURTH: Sure.

24 MS. RODOWSKI: The deck is
25 past that.

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2 MS. LEWIS: How much farther
3 back than the existing -- than this
4 existing deck will this come?

5 MR. KURTH: It is exactly in
6 line. It goes no further out than this
7 line.

8 MS. LEWIS: Okay. It will
9 be on pylons?

10 MR. KURTH: What we are
11 proposing instead of replacing the stilts,
12 we are putting a more proper foundation
13 there.

14 MS. LEWIS: Will there be
15 something on the ground level as well?
16 Will there be any deck on the ground
17 level?

18 MR. KURTH: No. We removed
19 that. It was but we removed that for the
20 application.

21 MS. LEWIS: Fine, thank you.

22 CHAIRMAN MAGUN: Let me
23 clarify. So the current proposal which is
24 set back, is it 12.2 or 14 or somewhere
25 between?

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2 MR. KURTH: The existing
3 corner of the spring porch is 12.2 feet
4 from the rear line.

5 CHAIRMAN MAGUN: And the
6 proposal now is to exactly be within that
7 same footprint?

8 MR. KURTH: It will actually
9 be slightly -- about 1.10, 1.8 feet
10 further back, the difference between 12.2
11 and 14 feet.

12 MS. LEWIS: Can I ask one
13 more question?

14 CHAIRMAN MAGUN: That is
15 with the stairs?

16 MS. LEWIS: That's what I
17 was going to ask. It includes the stairs?

18 MR. KURTH: It includes the
19 stairs. The whole idea now if you live
20 over here, your view would be identical
21 with the exception that we think we are
22 improving the dilapidated --

23 MS. LEWIS: The aesthetics.

24 MR. KURTH: Yeah.

25 MS. LEWIS: Thank you very

1 ZONING BOARD OF APPEALS - 4/26/2007

2 much.

3 CHAIRMAN MAGUN: Is there
4 anyone else who has questions or came with
5 regard to the proposal? Yes, sir.

6 MR. PERRY: I'm still a
7 little confused.

8 CHAIRMAN MAGUN: Name and
9 address.

10 MR. PERRY: Joseph Perry, 19
11 Southgate Avenue.

12 CHAIRMAN MAGUN: Where do
13 you live, Mr. Perry?

14 MR. PERRY: I live directly
15 behind his house.

16 CHAIRMAN MAGUN: The house
17 directly behind. There are two houses
18 behind his house.

19 MR. PERRY: Right.

20 CHAIRMAN MAGUN: One to the
21 east and one to the west.

22 MR. PERRY: I'm directly
23 behind. It is more towards me.

24 CHAIRMAN MAGUN: You are
25 directly behind?

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2 MR. PERRY: Yes. I'm a
3 little confused about the rear yard deck
4 and the side yard deck.

5 MR. KURTH: It is the same
6 deck.

7 MR. PERRY: Two separate
8 decks.

9 MR. KURTH: If you were here
10 last time --

11 MR. PERRY: We went through
12 this one. One is enclosed and one is
13 open.

14 MR. KURTH: No. The
15 screened porch is going to be an enclosed
16 room. That is the exact same footprint.

17 MR. PERRY: The screen porch
18 is going to be what?

19 MR. KURTH: Enclosed into a
20 year-round room. But that is not on the
21 agenda. It is already approved.

22 MR. PERRY: Okay.

23 MR. KURTH: What we are
24 here -- prior we had two decks, a lower
25 level deck that extended out much further

1 ZONING BOARD OF APPEALS - 4/26/2007
2 and an upper deck which we have scaled
3 back. So right now we only have one deck
4 in question.

5 MR. PERRY: Why is there a
6 rear deck and side yard deck here on the
7 proposal?

8 CHAIRMAN MAGUN: There are
9 two variances. It is one deck. There is
10 a rear yard variance requested which means
11 the distance from the deck to the rear
12 yard.

13 MR. PERRY: Correct, which
14 is supposed to be 30 feet.

15 CHAIRMAN MAGUN: It is
16 supposed to be 30 feet. And the applicant
17 wants it to be 14 feet. And there is a
18 side yard variance which is supposed to be
19 12 feet, and the applicant wants to make
20 it 11 something.

21 MR. PERRY: 11.4.

22 CHAIRMAN MAGUN: Yes.

23 MR. PERRY: It says existing
24 deck is 23 feet? The side yard deck
25 existing deck to be removed?

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2 CHAIRMAN MAGUN: Correct.

3 MR. PERRY: If they are
4 scaling that back to get it somewhat into
5 code --

6 CHAIRMAN MAGUN: No. They
7 are changing -- the current deck goes back
8 towards your property the same amount of
9 feet as the new proposal. Correct me if
10 I'm making a mistake. The difference,
11 aside from all the aesthetic differences
12 is the size of this deck going towards the
13 side.

14 MR. PERRY: Towards the back
15 of the house.

16 CHAIRMAN MAGUN: The deck
17 is much larger in area.

18 MR. PERRY: Is it going to
19 be one or two decks?

20 CHAIRMAN MAGUN: One deck
21 much larger in area because the current
22 deck that is there is how wide? I don't
23 remember.

24 MR. PERRY: I don't know.
25 But that's the existing deck that is

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2 there.

3 MR. KURTH: If you look
4 here, sir, you can see it.

5 CHAIRMAN MAGUN: There is
6 the old deck, and the new deck is going to
7 go to the side of the house.

8 MR. KURTH: It comes out
9 this way.

10 MR. PERRY: But this is the
11 enclosed deck. You are going to make one
12 deck out of the two decks or has this
13 always been attached?

14 MR. KURTH: This is one
15 deck, sir.

16 MR. PERRY: I see that.

17 MR. KURTH: We are taking
18 that deck down and replacing it with
19 another single deck but larger.

20 MR. PERRY: What is
21 happening to the enclosed deck that is
22 here?

23 CHAIRMAN MAGUN: It is not
24 a deck. We are calling it a room.

25 MR. PERRY: That will be

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2 enclosed. So this deck is going to be
3 redone a little larger and open?

4 MR. KURTH: It is open.

5 Yes.

6 CHAIRMAN MAGUN: Yes. A
7 little larger is probably not a fair
8 statement. It is a lot larger.

9 MR. PERRY: It is a lot
10 larger --

11 MR. KURTH: From 150 square
12 feet to --

13 CHAIRMAN MAGUN: Triple in
14 size.

15 MR. PERRY: I'm not really
16 worried about the square feet. It doesn't
17 matter to me. Just how far it goes toward
18 my property.

19 MR. KURTH: It doesn't go
20 one inch closer to your property.

21 MR. MURPHY: What about the
22 steps?

23 MR. KURTH: Including the
24 steps.

25 MR. PERRY: The steps are

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2 important too.

3 MR. KURTH: It goes closer
4 to the side.

5 MS. LEWIS: How can 150
6 square feet not go further anywhere?

7 MR. KURTH: See how the deck
8 stops midway through here? Now we are
9 extending it to the edge of the house so
10 it has gotten longer.

11 MR. PERRY: Then there are
12 steps going --

13 MS. LEWIS: But not any
14 wider?

15 MR. KURTH: Right.

16 MR. PERRY: From the front
17 to the back?

18 MR. KURTH: Front, yeah.

19 CHAIRMAN MAGUN: From the
20 rear yard to the beginning of the deck is
21 the same distance. From the side yard to
22 the beginning of the deck is -- the deck
23 is much larger in the side yard. It is
24 much smaller -- it affects neither -- it
25 doesn't impact on you or him. It affects

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2 the other neighbor.

3 MR. KURTH: This is how far
4 the existing screen porch to become a
5 sunroom extends. This is the location of
6 the new deck.

7 MR. PERRY: Where is the
8 covered --

9 MR. KURTH: The screen porch
10 is separate --

11 MS. LEWIS: What we are
12 objecting to is we were never --

13 CHAIRMAN MAGUN: Let me say
14 as neighbors you have a responsibility to
15 go down to the village board and look at
16 the plans. It is not -- I'm happy to do
17 it now.

18 MS. LEWIS: When I get a
19 certified letter I'm supposed to go to the
20 board?

21 CHAIRMAN MAGUN: Correct,
22 correct, or go to the applicant and ask to
23 look at the plan. The plans are available
24 to the public.

25 MS. LEWIS: The applicant

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2 doesn't live in the house, as far as I'm
3 concerned. I've been there three years.
4 I have never met my neighbors. As a
5 matter of fact, I just introduced myself
6 to their architect. I thought this was my
7 neighbor. That's what I'm talking about.
8 Okay.

9 CHAIRMAN MAGUN: That is
10 another issue.

11 MS. LEWIS: But the point is
12 that I don't even know what is going on,
13 so how can I make a judgment which this is
14 the first time --

15 CHAIRMAN MAGUN: You are not
16 making the judgment. We are making the
17 judgment. If you want to be an informed
18 citizen, you have to -- when you get a
19 registered letter telling you, you have to
20 go down to the board and say what is going
21 on here.

22 MS. LEWIS: Okay.

23 CHAIRMAN MAGUN: That's
24 all. We can't do much more than that.
25 And I'm happy if you take a few minutes to

1 ZONING BOARD OF APPEALS - 4/26/2007
2 look at the plans. But I can't help it if
3 you haven't seen it before.

4 MS. LEWIS: I understand.

5 CHAIRMAN MAGUN: Mr. Perry,
6 do you have more questions? Do you
7 understand?

8 MR. PERRY: No, I just
9 wanted to review the plans. I left a
10 letter here. Did you get the letter here?

11 CHAIRMAN MAGUN: I don't
12 know that I did.

13 MR. PERRY: Everybody has a
14 copy of the letter. I'm not so concerned
15 about the development as long as it
16 doesn't get any larger towards -- I mean,
17 it seems to me that the house, the
18 property, prior to whoever owns the house
19 now, to this man, it has had several
20 variances already. It is -- pre this deck
21 here that was preexisting and the other
22 deck are over -- and they have variances
23 for it, I assume. And that's all fine and
24 dandy. But now it seems like we are just
25 doing another variance on top of another

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2 variance. We are pushing the limit.

3 CHAIRMAN MAGUN: Maybe you
4 can read the letter to us. You took the
5 time to write it and you are the next-door
6 neighbor, so we can get it on the record.
7 We just saw it tonight.

8 MR. PERRY: I dropped it off
9 to you yesterday.

10 "To the zoning board of
11 Hastings-on-Hudson, regarding this meeting
12 that will be held on the property on 4
13 Glenn Place, I ask that you please deny
14 the request from relief for zoning
15 regulations. While my husband plans to be
16 at the meeting (me) I am not able to
17 attend, but I wish to submit this letter
18 to you to voice my concern. The house at
19 4 Glenn has already been extended both on
20 the side and to the rear with a porch.
21 The house already extends zoning
22 violations with both these structures."

23 CHAIRMAN MAGUN: Zoning
24 regulations.

25 MR. PERRY: "Zoning

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2 regulations for both of these structures.
3 With the addition of the enclosed porch,
4 the house basically runs the whole length
5 of their property along the backyard. Our
6 backyard meets their backyard at a rock
7 wall. The residence is already very close
8 to our property line in at least two
9 spots, along a screen porch as well as
10 along the corner of an enclosed room.
11 What we understand from their plans which
12 we haven't seen, what is proposed would
13 mean additional building towards us
14 including possible landfill under the
15 porch work. Both the building and the
16 reshaping of the land would create
17 tremendous encroachment on our yard area.
18 The scope of these changes would
19 permanently impact in a negative way the
20 peacefulness of our natural yard setting.
21 When any of us are in the yard, their
22 porch would be just a few feet away. The
23 way the land is formed in this area, the
24 additional size would mean that we would
25 basically have our house looming --

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2 CHAIRMAN MAGUN: Their
3 house.

4 MR. PERRY: Have their house
5 looming over us. Furthermore, I am
6 concerned about any potential land
7 adjustments that may cause problems to an
8 area already prone to drainage problems.
9 I am particularly concerned about the
10 runoff issues, as we already have problems
11 with neighbors' rain spouts running dirt
12 and rocks into our yard, creating a fill
13 situation that has killed any number of
14 bulbs. The runoff issue is something that
15 we have never addressed, even though I
16 have asked them to fix it when they first
17 moved in.

18 They have already received enough
19 relief from their existing circumstances.
20 The house is already extended beyond
21 regulations. The existing regulations
22 serve as a veritable purpose supporting an
23 important quality of life issue, space.
24 To relax the regulations further would
25 destroy the buffer to our home for our

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2 family. Please don't approve the zoning.
3 Thank you very much for your
4 consideration."

5 CHAIRMAN MAGUN: Just one
6 second, please. Is there anything else
7 you want to add to this, sir?

8 MR. PERRY: No, I think that
9 pretty much covers it. I think --

10 CHAIRMAN MAGUN: You are
11 opposed to this application because of the
12 issues that you raised here, the
13 encroachment of the backyard?

14 MR. PERRY: Pretty much.
15 Yeah. Exactly. I mean, it just seems
16 like it is getting further and further and
17 further. I would have to review the plans
18 a little more to see exactly how he is
19 working it, but it just seems like it is
20 going further and further towards --

21 CHAIRMAN MAGUN: Anything
22 else?

23 MR. PERRY: No.

24 CHAIRMAN MAGUN: Thank you.
25 Mr. Kurth, yes.

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2 MR. KURTH: There are two
3 areas of fact in the letter. One, as I
4 said before, we are not going any closer
5 at all to his property, No. 1. No. 2, the
6 application has no regrading whatsoever.
7 We are not changing the grades at all --

8 CHAIRMAN MAGUN: Not
9 changing the what?

10 MR. KURTH: -- the site
11 grading that might affect runoff or issues
12 that I'm not aware of.

13 CHAIRMAN MAGUN: Okay. Is
14 there anyone else who came with regards to
15 the application?

16 MR. KURTH: Mr. Punter, do
17 you want to say anything?

18 MR. PUNTER: I'm okay.

19 CHAIRMAN MAGUN: Let the
20 board think about it a little bit. My own
21 feeling about this application is somewhat
22 in line with the questions raised by Mr.
23 Perry. If I was he living in his
24 backyard, this is a large structure being
25 built up. And if you look at the setback

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2 lines that were drawn here, more than, I
3 would say, about 60 percent of the deck is
4 in the required setback, approximately, of
5 this enlarged deck. I have trouble with
6 that. I think it is a big structure. It
7 is a big structure. I know you had a
8 bigger structure proposed. But I'm
9 concerned about that.

10 I'm wondering how the rest of the
11 board feels. It is just a real
12 encroachment, and it does loom. The issue
13 of looming over the backyard there, when I
14 was there on the weekend, this house, Mr.
15 Perry's house is way down there. And this
16 deck will loom over it for sure. And I'm
17 concerned about that. It is big. If it
18 were smaller, I might be much less
19 concerned. I'm curious as to how the
20 other board members feel.

21 MR. SOROKOFF: When I looked
22 at the house I had the same feeling. In a
23 sense it is too much house for the lot.
24 And I would not be in favor of granting
25 the variance.

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2 CHAIRMAN MAGUN: Any other
3 comments from the board?

4 MR. MURPHY: Yes. I guess I
5 take a different view. I think our major
6 concern -- at least my major concern was
7 the scale of what was originally proposed,
8 so this is much more sensible. I think
9 one issue is what is proposed is clearly
10 an improvement in the quality of the deck
11 that exists and the particular -- the
12 access from that second level living area,
13 I guess is the kitchen, the other rooms of
14 the house. So since they are not
15 extending any further and, in fact, are on
16 the side of -- the deck that comes out to
17 the side of the house, Arthur, it is
18 really only a ten foot incursion into the
19 setback given the angle of the setback,
20 yes, which given the slope of the land
21 back there, I felt was okay.

22 I mean, yes, this is big. But I
23 don't think it is too big. And I think it
24 is offset by the fact that what is
25 currently there is not practical and may

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2 be -- we did this with another
3 application, I think, last month. If it
4 helps, maybe make an express condition
5 that it not be enclosed, that kind of
6 thing.

7 CHAIRMAN MAGUN: I would,
8 just to discuss it a little bit, I would
9 argue that it is such a big deck that they
10 are proposing in terms of square footage
11 that one could -- you could pull it in
12 more, particularly going towards the back.
13 The neighbor to the west is not here, but
14 that neighbor is going to have this,
15 again, I mentioned this before, this large
16 deck looming over them. And they have a
17 deck on the ground level.

18 So, again, I just -- I understand
19 the concept. I know that they want to
20 redo the house. It is going to open up
21 into one of the rooms, et cetera. I
22 understand all of that. I just think the
23 size of this is really too big. And also
24 I'm struck by the fact you draw a setback
25 line, and we are talking about letting 60

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2 percent of the structure go into the
3 setback.

4 MR. MURPHY: But the main
5 concern I have is on that side where that
6 incursion is much less.

7 CHAIRMAN MAGUN: But the --
8 anybody who lives here, Mr. Perry,
9 who lives here, he's got -- instead of
10 having a 30 foot, he's got a 14, we are
11 asking. I don't see what the point of
12 that is. Why does he have to have a 14
13 foot large deck looming over him. If the
14 deck were smaller, it would be less of an
15 issue.

16 MR. MURPHY: What is there
17 now is smaller. Yes.

18 CHAIRMAN MAGUN: Yes.

19 MR. MURPHY: At least my
20 recollection of what I felt in fairness to
21 the applicant, as we asked the applicant
22 to go back and scale it way back and not
23 only have they done that in terms of the
24 rear yard setback, they haven't gone any
25 further past what already exists. And

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2 with respect to -- what concerned me most
3 was having a deck on the second level, two
4 decks, but the one on the second level
5 going all the way out to the side of the
6 house. And then, you know, it also was
7 much, much closer to the rear yard.

8 So at least they pulled that back
9 to what is existing and basically used the
10 space out to the side of the house, which
11 I think was a responsible approach given
12 the board's original concerns.

13 CHAIRMAN MAGUN: I'm
14 also -- again, just to get back, I think
15 the neighbor's feelings here are
16 important. We have two neighbors that are
17 concerned about this. To me that's a
18 pretty important issue. Anybody else in
19 the board?

20 MR. PYCIOR: I share some of
21 the concern about the size of the deck,
22 because with the stairs it is really 18
23 and a half feet deep and 24 feet long. It
24 is quite a structure. Even though it has
25 been scaled back, the existing deck is 150

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2 square foot. This is 462 square feet, not
3 counting the stairs which are four and a
4 half feet by 24 feet, because they run the
5 length of the deck. This is a substantial
6 structure, and the neighbors would be in
7 the case of Mr. Perry, looking up at a
8 much bigger structure, the house plus the
9 deck.

10 CHAIRMAN MAGUN: All right.
11 Anybody else? David?

12 MR. DEITZ: The decks make
13 a lot of sense in Hastings because the
14 land is so uneven and so unusable for
15 normal living. And decks are level. And
16 this opens up from a living room or dining
17 room if I recall from the previous
18 presentation. Part of the reason it looms
19 is because it is higher up. But that's
20 just the geography of it. I appreciate
21 the fact it has been scaled back at our
22 request. And I think it is a close call
23 whether it is really too big or not. They
24 tell us it doesn't go any closer to the
25 property line than the existing structure

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2 does.

3 CHAIRMAN MAGUN: But it is
4 much bigger.

5 MR. DEITZ: And it is
6 wider, but it is no wider than the house.

7 CHAIRMAN MAGUN: The fact
8 that the neighbors are unhappy about it,
9 does that make --

10 MR. DEITZ: That, of
11 course, is a concern.

12 CHAIRMAN MAGUN: Okay.
13 Well, I think we have discussed this. Any
14 other issues? Okay. So we have before us
15 two requests for a variance, rear yard and
16 side yard. So the first one is rear yard.
17 Existing deck would be removed and the new
18 deck as proposed is 14 feet from the rear
19 yard setback or 30 feet rear yard property
20 line where 30 feet is required. Is there
21 a motion in favor of granting this
22 variance?

23 MR. MURPHY: Yes, I'll move
24 to approve the rear yard setback for the
25 proposed deck, 14 feet proposed 30 feet

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2 required.

3 CHAIRMAN MAGUN: Is there a
4 second?

5 MR. DEITZ: I'll second.

6 CHAIRMAN MAGUN: In favor?

7 MR. MURPHY: Aye.

8 MR. DEITZ: Aye.

9 CHAIRMAN MAGUN: Against
10 three. So it is not passed. Two against
11 three.

12 The side yard variance, I guess we
13 should vote on that also. Is there a
14 motion in favor of granting a side yard
15 where 11.4 feet is proposed and 12 feet is
16 required? Let me just think about this.
17 Should we vote on the side yard variance
18 even though, because it is really part and
19 parcel of one structure. I'm not --

20 MR. MURPHY: I don't think
21 it matters.

22 MS. STECICH: It actually
23 is moot but you may as well.

24 CHAIRMAN MAGUN: Is there a
25 motion in favor of granting the side yard

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2 variance?

3 MR. MURPHY: Yes, I will
4 move to approve the side yard variance.

5 MR. DEITZ: I'll second.

6 CHAIRMAN MAGUN: In favor?

7 MR. MURPHY: Aye.

8 MR. DEITZ: Aye.

9 CHAIRMAN MAGUN: Against.
10 So the same thing, two against three, so
11 again not passed.

12 MR. KURTH: If I may ask,
13 two things. Would the landscape screening
14 of any kind affect the Board, No. 1, and
15 No. 2, would the board consider a further
16 reduction or is it the position that we
17 must basically keep the same deck?

18 CHAIRMAN MAGUN: No, I
19 don't think we can answer. You just have
20 to go by what you heard tonight. It is a
21 close vote. So I think people have
22 expressed their opinions about size
23 issues. I don't really think it would be
24 fair for me or anyone else to mislead you
25 or lead you one way or the other.

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2 MR. KURTH: Understood.

3 MR. MURPHY: I would suggest
4 you talk to your neighbors and see if you
5 can work something out.

6 CHAIRMAN MAGUN: I think
7 that's a very good suggestion. Thank you,
8 Brian.

9 The next item on the agenda is
10 7-07, Luis Cajas, 58 Farragut Avenue. I'm
11 not sure I pronounced that correctly. One
12 second. And this is an application for
13 enclosure of an existing porch in the rear
14 of the house at 58 Farragut Avenue.

15 MR. CAJAS: Yes.

16 CHAIRMAN MAGUN: Tell us
17 your name and address.

18 MR. CAJAS: My name is Luis
19 Cajas.

20 CHAIRMAN MAGUN: You are
21 the owner of the house?

22 MR. CAJAS: I live at 58
23 Farragut Avenue.

24 CHAIRMAN MAGUN: Why don't
25 you tell us what you want to do and why

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2 you need a variance?

3 MR. CAJAS: The thing is,
4 the porch was too old, you know.

5 CHAIRMAN MAGUN: Speak
6 closer.

7 MR. CAJAS: The porch was
8 too old. The windows was breaking. In
9 the wintertime it was so cold. I have to
10 put plastic over it, you know, and the
11 porch was all breaking apart. I have two
12 kids, and next to the porch was my
13 kitchen. So, you know, every time the
14 winter time, it is so cold. And I don't
15 have too much heat in my home. So that is
16 the reason I need to renovate it, that
17 porch.

18 CHAIRMAN MAGUN: Okay. So
19 when I went to look at the house, it looks
20 like the project was started already. Is
21 that --

22 MR. CAJAS: Yes. I was only
23 changing, you know.

24 CHAIRMAN MAGUN: Can you
25 explain?

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2 MR. SHARMA: They had
3 started the project. They started to do
4 work inside the house too. So I asked
5 them to get a proper permit to do the work
6 inside and out for the porch and to go
7 through the process and go through the
8 variance. And after they get the
9 variance, they will get a permit and
10 continue finishing the work.

11 CHAIRMAN MAGUN: Okay. So
12 there was an existing porch there. They
13 already started to enclose it. Then you
14 asked them to stop. It looks like it is
15 already enclosed.

16 MR. SHARMA: That is
17 correct, existing porch. And they started
18 to enclose it already, and I asked them
19 not to do it any more and get the proper
20 permits.

21 MR. CAJAS: Correct.

22 CHAIRMAN MAGUN: They are
23 here tonight because the side yard is 7.1
24 feet rather than the required 8 feet.
25 That is the only variance?

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2 MR. SHARMA: Yes. By the
3 way, I have gotten elevations.

4 CHAIRMAN MAGUN: Oh, you
5 did.

6 MR. SHARMA: I gave you
7 copies of it.

8 CHAIRMAN MAGUN: I had
9 asked if we could. These weren't in our
10 original packet because we didn't really
11 have an elevation.

12 MR. SHARMA: There is one
13 elevation and one picture from the side
14 that is not very much different.

15 CHAIRMAN MAGUN: I see it.
16 Mr. Cajas, what is this going to be used
17 for, this room?

18 MR. CAJAS: For a porch.
19 Just, you know, for my kids, you know, can
20 play over there.

21 CHAIRMAN MAGUN: It is an
22 enclosed heated? It is going to be a
23 heated room?

24 MR. CAJAS: Yes.

25 CHAIRMAN MAGUN: Enclosed

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2 like a playroom?

3 MR. CAJAS: Exactly, yes.

4 CHAIRMAN MAGUN: Like a

5 playroom?

6 MR. CAJAS: Yes.

7 MR. SHARMA: If I may

8 explain, they removed the wall between the

9 porch and the inside space. So the

10 interior space gets larger extended out

11 into the porch. And actually the whole

12 space becomes more like a living area, the

13 kitchen in the back. So it is not two

14 separate spaces. It is one larger space.

15 MR. MURPHY: There is no

16 doorway. It is opened up.

17 MR. SHARMA: The doorway

18 used to be there, and I asked them to put

19 the doorway back until they get the

20 permission. The plan is to open up the --

21 remove the wall and the door and make the

22 living space in the back extend into the

23 porch area.

24 CHAIRMAN MAGUN: Okay.

25 MR. SHARMA: For all

1 ZONING BOARD OF APPEALS - 4/26/2007
2 practical purposes it is habitable living
3 space.

4 CHAIRMAN MAGUN: It is
5 basically an extension of the house
6 through the rear of the house.

7 MR. SHARMA: Correct.

8 CHAIRMAN MAGUN: Just
9 required a side yard area variance. Okay.
10 And how many children do you have?

11 MR. CAJAS: Two.

12 CHAIRMAN MAGUN: How many
13 bedrooms do you have in the house?

14 MR. CAJAS: I have two.

15 CHAIRMAN MAGUN: Okay. So
16 it is just a one -- you live -- it is a
17 two story house.

18 MR. CAJAS: Yes. Two
19 apartment house. I live in the first
20 floor and I rent upstairs.

21 CHAIRMAN MAGUN: It is
22 two-family house. You have a tenant on
23 the second floor?

24 MR. CAJAS: Right now I live
25 upstairs because I can't live on the first

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2 floor unfortunately.

3 CHAIRMAN MAGUN: Any
4 questions about the application? Is there
5 anyone in the audience who wishes to speak
6 with regards to the application? Okay.

7 One more second. Okay. So the applicant
8 is seeking a side yard variance for the
9 construction of enclosing the porch and
10 turning it into essentially part of the
11 house, I think would be a fair statement.

12 MR. SHARMA: It is existing
13 nonconforming side yard.

14 CHAIRMAN MAGUN: Okay. And
15 the rear yard issue, there are no rear
16 yard issues?

17 MR. SHARMA: No.

18 CHAIRMAN MAGUN: Is there a
19 motion to approve the request for
20 variance?

21 MR. MURPHY: Yes. I'll move
22 to approve the side yard variance,
23 proposed 7.1 feet required 8 feet.

24 CHAIRMAN MAGUN: Is there a
25 second?

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2 MR. PYCIOR: I'll second.

3 CHAIRMAN MAGUN: In favor?

4 MR. DEITZ: Aye.

5 MR. SOROKOFF: Aye.

6 CHAIRMAN MAGUN: Aye.

7 MR. PYCIOR: Aye.

8 MR. MURPHY: Aye.

9 CHAIRMAN MAGUN: Okay.

10 MR. CAJAS: Thanks so much.

11 I appreciate it. Thank you very much.

12 Thank you.

13 CHAIRMAN MAGUN: So you can
14 see the building inspector, and he will
15 give you the permit.

16 CHAIRMAN MAGUN: So we are
17 on to the last proposal of the evening.
18 And we did receive some letters about
19 this. This is case 8-07, Teresa Granda,
20 21 Ravensdale Road. It is for a two-story
21 addition and extension of an existing
22 driveway to circular driveway. The
23 request is for a rear yard variance and
24 for the size of the driveway. So, sir,
25 why don't you tell us your name, address

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2 and you are going to discuss the proposal?

3 MR. TORKE: Yes. Ralf
4 Torke, I'm the architect for the project.
5 My address is 6 Grandview Road in
6 Hastings. The existing house is a ranch,
7 one story. The garage is essentially in
8 the basement. It is located on Ravensdale
9 at the local high point. These are photos
10 taken from Ravensdale at the local high
11 point.

12 There is sort of a dip at
13 Ravensdale at -- I've only lived there 25
14 years. You'd think I would know the
15 streets by now. At Rosedale, Rosedale is
16 a low point and Ravensdale comes up and
17 makes a bit of a bend and then continues
18 down towards the parkway. That is where
19 the existing driveway comes in right at
20 that high point right at that bend.

21 So it was a question of
22 accessibility to that driveway that we
23 were seeking to address by extending the
24 driveway into a U-shaped configuration.
25 The addition that is being proposed is --

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2 currently there is --

3 CHAIRMAN MAGUN: The
4 picture you are pointing at, is that --

5 MR. TORKE: Yes. This is a
6 rendering of the current structure. The
7 addition is located where there is a 10
8 foot wing, and what is being proposed is a
9 two story approximately 20 foot, 25 foot
10 wide wing. So the footprint is being
11 extended 15 feet. And then beyond that
12 there is a second story cantilever that is
13 somewhat narrower than the main bulk of
14 the wing, and a balcony and a trellis over
15 a patio.

16 The rear yard setback is required
17 because the property, which is less than
18 100 foot deep at this point, so we are
19 going with the 30 percent formula for
20 required yards -- faces the dead end of
21 Nichols driveway. If I can show you, this
22 photo right here shows the end of Nichols
23 driveway. This is the structure. This is
24 the end of the structure where we would be
25 adding to.

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2 As you can see, the elevation of
3 Nichols is higher than the property,
4 subject property. It is almost at the
5 level of the existing eave. So even
6 though we are building a two-story
7 addition, the effect from Nichols would be
8 mitigated because of that elevation.

9 Furthermore, as far as houses on
10 Nichols, the last structure on Nichols
11 proper is a garage. The first residence
12 is back 50 or 100 feet and further raised
13 in elevation as well. So, again, even
14 though we are proposing a two-story
15 structure within that area, that is
16 subject to the variance, the effect on
17 views is minimal in terms of any
18 neighboring properties.

19 CHAIRMAN MAGUN: Can you
20 tell us a little more about what you are
21 actually proposing to do in terms of the
22 addition to the house, maybe why you want
23 to do it?

24 MR. TORKE: Okay. The
25 addition consists of an extended study or

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2 family room on the ground floor. On
3 drawing A-2, you can see at -- the top
4 plan shows the extent of the existing 10
5 foot wing in red which would be replaced
6 by the new construction at the bottom.
7 So --

8 MR. MURPHY: Say that again.

9 MR. TORKE: On drawing A-2,
10 the top plan shows the existing
11 construction. The red area to the -- at
12 the left is the existing study and a
13 covered porch which would be replaced by
14 an extended family room and stair and some
15 storage leading out to a covered porch and
16 patio area.

17 CHAIRMAN MAGUN: That is
18 what that is, it is a covered porch and
19 patio?

20 MR. TORKE: Right. At the
21 second floor there are two bedrooms and a
22 bath as well as a small balcony extending
23 out over that patio area.

24 CHAIRMAN MAGUN: What are
25 we doing here in terms of changing -- the

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2 house has how many bedrooms now and how
3 many will it have?

4 MR. TORKE: The existing
5 house has three small bedrooms on the
6 right hand of the plans that you are
7 looking at, and so we are adding two.

8 CHAIRMAN MAGUN: So it will
9 have five bedrooms?

10 MR. TORKE: Total of five,
11 yes.

12 CHAIRMAN MAGUN: What is
13 the reason for that?

14 MR. TORKE: The existing
15 bedrooms are small. This is a modest
16 early '50s house. So the owners wanted a
17 larger master suite. Even though the
18 plans call it a bedroom, in effect it will
19 be a home office. So this whole second
20 floor becomes a master suite with its own
21 bathroom. And the ground floor is an
22 extended -- you know, an increased family
23 room, an enlarged family room.

24 CHAIRMAN MAGUN: There is
25 no attic?

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2 MR. TORKE: No. What we did
3 is we are keeping the existing roof
4 pitches of the early '50s raised ranch
5 style in the addition.

6 CHAIRMAN MAGUN: And that
7 second -- just can you discuss a little
8 bit how the height of the second floor
9 relates to the garage that is behind it?
10 No, the neighbor's garage, the Nichols.

11 MR. MURPHY: The Nichols
12 driveway.

13 MR. TORKE: Where this van
14 is parked, the garage is immediately
15 outside this picture. And on the location
16 plan, it is right in that V-shaped corner
17 in the crotch of the hill.

18 CHAIRMAN MAGUN: I know
19 where it is, but just in terms of the
20 relationship. It is a tricky property. I
21 went and spent sometime at the garage
22 looking at it, trying to understand how
23 high. So you are going to add another
24 story to the house?

25 MR. TORKE: That's right.

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2 CHAIRMAN MAGUN: How will
3 that relate to the garage in terms of
4 height? Can you give us some idea? It's
5 hard to tell.

6 MR. TORKE: If the garage is
7 a standard story height, this second
8 story, this proposed second story, would
9 be half a story again higher than that.

10 CHAIRMAN MAGUN: And the
11 other question I had is these lot depths
12 that you have calculated, they are
13 different numbers 24.1, 22.5. Can you
14 explain to us what you are doing here?

15 MR. TORKE: Again, that goes
16 back to the lot depth being less than 100
17 feet. So the 30 percent formula gives you
18 actually, you know, a continuously varying
19 depth. So what I did is I showed it at
20 the existing corner of the building, and
21 then I also showed it where the second
22 floor addition narrows and --

23 CHAIRMAN MAGUN: So the
24 smallest distance, the shortest distance,
25 is that 19.5?

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2 MR. TORKE: That's right.

3 That is at the corner. That is an
4 existing condition. And we are building a
5 second floor above that corner.

6 CHAIRMAN MAGUN: That
7 little part that juts out there on this
8 drawing, that is the -- is that the
9 balcony?

10 MR. TORKE: The first
11 narrowing is the extended --

12 CHAIRMAN MAGUN: Here on
13 this drawing?

14 MR. TORKE: Yes, that's the
15 balcony, yes.

16 CHAIRMAN MAGUN: So that is
17 the second floor balcony?

18 MR. TORKE: Yes.

19 CHAIRMAN MAGUN: Below that
20 is open space?

21 MR. TORKE: There is a
22 trellis structure underneath that balcony.

23 CHAIRMAN MAGUN: Okay.

24 MR. SOROKOFF: On the first
25 floor construction plan there is nothing

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2 labeled bedroom. Is that an oversight?

3 MR. TORKE: Yes, yes, it is.

4 It is the three rooms at the right end of

5 the plan, because there was no work

6 proposed.

7 CHAIRMAN MAGUN: Sorry. I

8 just wanted to clarify.

9 MR. TORKE: Yes.

10 MR. PYCIOR: Mr. Torke, on

11 part of the granting of the variance is

12 consideration of need. You said what the

13 owner would want.

14 MR. TORKE: Yes.

15 MR. PYCIOR: Why does the

16 owner need five bedrooms or four bedrooms

17 and an office and a large family room?

18 MR. TORKE: Would the owner

19 like to address that?

20 CHAIRMAN MAGUN: State your

21 name and address.

22 MS. GRANDA: Teresa Granda,

23 21 Ravensdale Road. Part of the challenge

24 with the house, and we do love the house;

25 we want to stay there -- is that the

1 ZONING BOARD OF APPEALS - 4/26/2007
2 bedrooms are right on top of each other
3 and they are very small. And I'm the only
4 woman in the house. So I don't have a lot
5 of privacy. And I share a bathroom with
6 my husband and my son. My son's bedroom
7 is literally like caddy corner to our room
8 or in any bedroom. In that room he would
9 be right next to us.

10 So there is a sense that we want to
11 create some privacy for myself and for my
12 husband and I to have Deven kind of have
13 his own space. He is getting a little
14 older, and I feel he needs a little
15 privacy himself. And I would like not to
16 share a bathroom with him any more. So
17 that is part of why we were thinking of
18 doing this.

19 MR. PYCIOR: Thank you.

20 CHAIRMAN MAGUN: Could you
21 talk about the driveway a little bit?

22 MR. TORKE: Yes.

23 CHAIRMAN MAGUN: There
24 seems to be some letters here that I
25 haven't had a chance to look at, but go

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2 ahead.

3 MR. TORKE: Well, the -- as
4 I introduced this project, the location of
5 the house is at the crest of a small hill,
6 and at a corner makes coming out of what
7 is a relatively narrow steep driveway
8 frankly a dangerous proposition. By
9 creating a second curb cut that would
10 allow -- that would -- I'm trying to think
11 of a lawyerly word here -- that would not
12 require backing out but would allow
13 exiting cars better sight lines, better
14 views of oncoming traffic, that was why
15 that was -- how that came about.

16 CHAIRMAN MAGUN: How did
17 you come up with such a huge driveway? I
18 mean, it is huge.

19 MR. TORKE: It is. We have
20 a lot right in front. So we can't come
21 straight. In order to meet the slope
22 requirements, I think there are maximum
23 grades for driveways. We have to sort of
24 come diagonally across the slope. So
25 that's how those --

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2 CHAIRMAN MAGUN: How long
3 actually is this driveway that you are
4 proposing? You gave us square footage but
5 I did a quick measurement.

6 MR. MURPHY: This letter
7 from April 9, that is what I'm looking at.

8 CHAIRMAN MAGUN: This is
9 the square footage.

10 MR. PYCIOR: It would be 120
11 feet.

12 CHAIRMAN MAGUN: 120 feet
13 long.

14 MR. PYCIOR: From the
15 existing.

16 MR. TORKE: Okay. I'll
17 accept that, because I don't have the
18 proper scale but --

19 MS. STECICH: Do you know
20 the width of the driveway? If you take
21 the square footage and take the square
22 footage and divide it by the width.

23 MR. TORKE: It is an 8 foot
24 driveway.

25 MS. STECICH: It is 8 feet.

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2 MR. TORKE: 8 feet would be
3 a standard.

4 MS. STECICH: What is the
5 square footage, 1850?

6 CHAIRMAN MAGUN: It depends
7 how you calculate it.

8 MS. STECICH: There are 225
9 square linear feet for the whole thing.
10 Can I ask a question about that? Was it
11 raised with the village -- I mean, part of
12 your driveway is going to go apparently
13 through village property.

14 CHAIRMAN MAGUN: That is
15 the other thing I was trying to
16 understand.

17 MR. TORKE: Well, every
18 driveway to some extent crosses some
19 village property, because once --
20 typically one's property line isn't at the
21 edge of the paved roadway.

22 MS. STECICH: Does your
23 property appear to -- appear to run all
24 the way up to Ravensdale?

25 MR. TORKE: No, no. There

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2 is another house on the corner of
3 Ravensdale. I don't know how that curved
4 property line came about. But that's what
5 is shown on the survey.

6 MR. SHARMA: Let me say the
7 property line at the right side of the
8 property is almost 40 feet away.

9 MS. STECICH: I see that.

10 MR. SHARMA: The street line
11 and the left-hand side is about 20 feet
12 away.

13 CHAIRMAN MAGUN: Yes. So
14 all that land belongs to the village.

15 MS. STECICH: What is in
16 that space now?

17 CHAIRMAN MAGUN: Trees.

18 MR. TORKE: Trees, rocks,
19 light poles.

20 MS. STECICH: It appears to
21 be -- I don't know. You know. That is
22 an issue we have to think about.

23 MR. SHARMA: In the letter I
24 did ask them to put down how much of the
25 1800 square feet is on their property.

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2 And the rest they have to go get from this
3 property onto the street. So what is in
4 the middle is our property.

5 MR. TORKE: The survey
6 information that we have doesn't show the
7 exact edge of pavement for the entire
8 frontage of Ravensdale. The survey does
9 show the existing driveway, but the
10 extended line of Ravensdale was an
11 interpretation on my part. We obviously
12 have to go to a surveyor, get additional
13 information just in terms of elevations
14 before we can actually construct this.
15 But at the same time we would get an exact
16 location of the paved --

17 MS. STECICH: I don't think
18 this is something the zoning board has to
19 worry about, but it is certainly an issue
20 that we would have to look into. You are
21 right. To a certain extent all property,
22 but this is -- this seems pretty
23 significant.

24 CHAIRMAN MAGUN: That was
25 my concern, that just to propose 20, 30,

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2 or 40 foot driveway is huge. And I
3 understand it is hard to back in and out
4 of the house. But --

5 MR. PYCIOR: When I visited,
6 it looks like the current driveway is
7 configured so one can pull up towards the
8 garage or into the garage and then back
9 out to the left and then go out forward,
10 make a K turn.

11 MR. TORKE: Maybe it was
12 designed that way with one car in mind.
13 But everyone now has two cars. And when
14 that other car is sitting in that spot --

15 MR. MURPHY: Did you explore
16 a way to do this without extending the
17 driveway and making another curb cut, just
18 expand the turnaround area?

19 MR. PYCIOR: Especially off
20 to the right, the car could pull in away
21 from the garage.

22 MR. MURPHY: See, because
23 the proposed -- this is a huge expansion
24 of impervious surface with always the
25 issues that go with that. That is not

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2 something that we would frankly consider
3 at all, at least I wouldn't, not without,
4 you know, extenuating circumstances for
5 some real safety issue you are raising.

6 But I think you are getting the
7 sense from the board it seems like a
8 simpler solution is just to try to expand
9 that turnaround area a little bit.

10 MR. TORKE: It would require
11 excavating into grade and already lots of
12 rock outcroppings. But it is certainly
13 something we could look at.

14 MR. MURPHY: The other way
15 would require that too.

16 MR. TORKE: Yes. Although
17 walking the property and being able to
18 fill as well as cut with a diagonal
19 connector, that is somewhat -- gives us a
20 little more flexibility.

21 CHAIRMAN MAGUN: There is
22 no one in the room, but there is a letter
23 here from a bunch of neighbors that,
24 Deven, you got this?

25 MR. SHARMA: I got this this

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2 morning.

3 CHAIRMAN MAGUN: I think we
4 should read it just so we can address some
5 of the issues here, since it does have --
6 it is more than one person. I'm going to
7 read it, and then you can discuss any
8 additions if you think we need to.

9 This is a letter from a group of
10 people, Charles Fewell, Christina Fewell,
11 and then they are copying a letter from
12 Carole Polly, Jennie and Dale Reis, and
13 Lindsay and Frank DuPont.

14 "This letter is submitted on behalf
15 of myself and my neighbors on Nichols
16 Drive in objection to the application for
17 variances sought by Teresa Granda for her
18 property. The application is to be
19 reviewed tonight and none of us can
20 attend." I'm sorry about abbreviating.

21 "The proposed Granda addition including
22 the major driveway expansion would require
23 the elimination of many trees, in fact, a
24 whole hillside of mature trees.

25 "The Granda property abuts Nichols

1 ZONING BOARD OF APPEALS - 4/26/2007

2 Drive and will have a major impact on our
3 properties. My late husband designed and
4 built our house in 1966 specifically to
5 maximize the privacy offered by this
6 location." And this refers to Carole
7 Polly.

8 "Our detached garage currently acts
9 as a privacy screen between our home and
10 the property under discussion." That must
11 be the garage we are talking about.

12 "However, the proposed addition extending
13 west from their existing house and about
14 10 feet higher will have windows facing my
15 house. It is will also loom over the top
16 of Nichols Drive and appear out of scale
17 with our street. The houses on our street
18 are all built into the hillside, so none
19 of them impact the skyline, as this would
20 dramatically.

21 "We also wish to call to the
22 board's attention the east elevation of
23 the proposed Granda addition contains no
24 windows. This leads us to believe the
25 proposed addition is only Phase I of a

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2 more extensive plan for this house
3 expansion. We are very concerned it will
4 become another large out-of-scale new
5 house, similar to others built on
6 previously vacant land on Ravensdale Road
7 in the past decade. The Granda house is
8 already at a high elevation as well as
9 being on the peak of the Ravensdale Road
10 hill so that its one-story roofline
11 currently is at about the same level as
12 the second-story windows of the large
13 house next-door to it. This means if they
14 extend the proposed second story on top of
15 the existing building, the new roofline
16 will be considerably higher than any of
17 those nearby.

18 "Should the board decide to approve
19 the variance application, we request that
20 some provision be made requiring
21 appropriate screening or buffering in
22 order to provide some privacy to those of
23 us on Nichols Drive. This might be best
24 done in the form of evergreen trees which
25 would also help the environment by acting

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2 as a replacement for many of the trees
3 that would have to be cut down by this
4 project.

5 "In addition, we are extremely
6 concerned regarding the possibility of
7 construction vehicles attempting to use or
8 park on Nichols Drive during the
9 construction period. Nichols Drive is a
10 very narrow street and is difficult to
11 maneuver with just the vehicles owned by
12 the residents of the street. Even if one
13 car is parked improperly, the road becomes
14 impassable as Hastings VPW will confirm."

15 This is from Carole Polly, Jennie
16 and Dale Reis, Lindsay and Frank DuPont
17 and Christina Fewell. So since they are
18 not here, I wanted to read that into the
19 record. Any -- does the board -- did you
20 all get copies of this? Okay. So we
21 have it. Any comments with regard to
22 that? You don't have to.

23 MR. TORKE: I think some of
24 them -- there are a number of statements,
25 points to be made. First of all, there

1 ZONING BOARD OF APPEALS - 4/26/2007
2 has never been any discussion with the
3 owners about this being a Phase I of some
4 expansion down the road. This has always
5 been a free autonomous, if you will,
6 addition. I don't even see a practical
7 way of extending the second floor back
8 over the rest of the house.

9 MR. MURPHY: Why isn't there
10 a window on the east side of the bedroom?

11 MR. TORKE: Well, we talked
12 about it. And we felt that in terms of
13 the usability of that second bedroom,
14 which is, in fact, a study with the
15 windows on the south facade giving plenty
16 of light would -- putting windows facing
17 east would have limited the usability of
18 the room.

19 MR. MURPHY: Is it going to
20 be used as a bedroom or a study?

21 MR. TORKE: I think the
22 intent was to have it more of an annex to
23 the master bedroom. We called it a
24 bedroom simply for, you know, code
25 purposes so that it meets, you know, so

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2 that --

3 MR. SHARMA: Code issues?

4 You could call it anything. If it is a
5 study or an office, library, call it that.

6 MR. TORKE: We will then.

7 MR. SHARMA: Why call it a
8 bedroom?

9 MR. TORKE: Okay. The
10 height issue that was raised, yes, it is
11 on -- as I said, a rise. So it is
12 elevated from that. So whatever we build
13 there will be higher than the adjacent --
14 the houses further down Ravensdale.

15 However, the writers of this letter
16 seem to be more concerned about the height
17 issues from Nichols. And as this photo
18 shows, it is half a story below -- the
19 existing house is half a story below. So
20 if we were to build our second floor,
21 which is fully in compliance with all of
22 the height restrictions in the code, we
23 are well within our rights to do that.

24 If we were not to build within the
25 6 foot encroachment, we could build just

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2 as bulky, just as massive, in fact, or a
3 more massive longer structure because we
4 are shrinking the width. But in order to
5 get the same square footage we would
6 extend it further, remaining within the as
7 of right. I mean, there would be
8 compromises as far as the functionality of
9 the plan, but we wouldn't be here before
10 you talking about that. And they would,
11 in fact, be worse off because it would be
12 more of a wall that was being built.

13 So by locating this structure where
14 it is, while it does require a variance
15 because of that encroachment, I think we
16 are actually offering the neighbors a
17 better solution. And I've been to enough
18 of these meetings that I know sometimes
19 neighbors don't -- can't see that but --

20 CHAIRMAN MAGUN: The
21 encroachment actually is not that
22 significant, right. I mean, just to
23 clarify, that looking at these drawings,
24 you are asking the -- according -- and I
25 think your drawings are accurate in terms

1 ZONING BOARD OF APPEALS - 4/26/2007
2 of the lot depth. So 24 feet is -- for
3 example, the middle of the proposed
4 addition is the required setback and
5 you're going to be how far, 19.5?

6 MR. TORKE: 19 at the
7 corner. And then it -- you know, as I
8 say, as you move that, that dimension
9 is --

10 CHAIRMAN MAGUN: 20
11 percent.

12 MR. MURPHY: It is actually
13 less.

14 CHAIRMAN MAGUN: Like a 20
15 percent encroachment into the rear yard
16 setback. Just kind of -- you know.

17 MR. MURPHY: It is the kind
18 of thing we would typically, I think,
19 consider. I agree with Mr. Torke's
20 analysis of the height issue as well.

21 CHAIRMAN MAGUN: So do I.
22 I agree. Nobody likes to see anything
23 going up. But you are allowed to build a
24 second story. I don't think the height is
25 that big of an issue to me anyway.

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2 MR. MURPHY: One question
3 for you. Maybe your client wants to speak
4 to this. The neighbors, on the other
5 hand, requested some screening or
6 buffering between the proposed addition
7 and their homes back on Nichols. Is
8 that -- that doesn't seem unreasonable, I
9 suppose.

10 MS. GRANDA: That doesn't
11 bother me in the least. Part of why we
12 love our house, if you have seen it, is it
13 is in the trees and in the woods and there
14 is not a lot of formal landscaping. We
15 actually don't like formal landscaping.
16 And their perspective of keeping it green,
17 we totally agree with. And we will be
18 very mindful of, I think. And I'm sure
19 there is something we can do to make that
20 more palatable.

21 MR. MURPHY: Thank you.
22 Adding some screening would help this
23 perfectly parked van.

24 CHAIRMAN MAGUN: Stan, did
25 you want to say something?

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2 MR. PYCIOR: I had one
3 observation, that Nichols does -- it is
4 extremely steep. As soon as you go up, we
5 looked at a house there years ago. We
6 didn't buy it because it is so steep.
7 Once you start going up Nichols, you are
8 soaring well above this roofline.

9 CHAIRMAN MAGUN: Any other
10 questions or comments from the board?

11 MR. MURPHY: The driveway, I
12 don't see --

13 CHAIRMAN MAGUN: I don't
14 think we are going to vote on the driveway
15 in a favorable way. And I think, again, I
16 spent a lot of time on this property
17 looking at it because it is such an
18 interesting piece of land, a difficult
19 piece of land to work with. But I think
20 you have to come up with a different
21 solution to that question, the driveway
22 issue. And I think what Brian and Stan
23 said in terms of perhaps expanding the
24 existing driveway some way would make more
25 sense. It may cost more. It may be more

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2 difficult. But this is -- this huge
3 driveway here is really hard for us to --

4 MR. TORKE: I appreciate
5 that.

6 CHAIRMAN MAGUN: The design
7 of the house I think is very nice. I
8 think it will fit in nicely into the
9 landscape. Any other concerns? All
10 right. I don't think there is anyone else
11 here.

12 So the request for two variances.
13 A rear yard setback for construction of
14 the two-story addition and a driveway size
15 of the driveway where existing is I think
16 10.90 and proposed how you measure is
17 something like 1800. Is there a motion
18 with regards to the rear yard variance
19 request where existing and proposed is
20 19.4 feet and required is variable but
21 somewhere between 24 to 30 feet.

22 MR. MURPHY: I think it is
23 24.1 using the 30 percent rule.

24 CHAIRMAN MAGUN: The
25 minimum. It gets bigger at some point.

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2 MR. MURPHY: That is right

3 but --

4 CHAIRMAN MAGUN: We will

5 use the minimum. Okay.

6 MR. MURPHY: Yes. I would

7 move to approve the request for variance

8 for the rear yard setback, 19.39 feet

9 proposed 24.1 feet required, but on the

10 condition that the owner provide a

11 substantial evergreen screening as a

12 visual buffer on the backside of the

13 proposed addition between Nichols and the

14 owner's home.

15 CHAIRMAN MAGUN: Okay. Is

16 there a second to that?

17 MR. DEITZ: I'll second

18 that.

19 CHAIRMAN MAGUN: In favor?

20 MR. MURPHY: Aye.

21 MR. PYCIOR: Aye.

22 CHAIRMAN MAGUN: Aye.

23 MR. DEITZ: Aye.

24 MR. SOROKOFF: Aye.

25 CHAIRMAN MAGUN: That

1 ZONING BOARD OF APPEALS - 4/26/2007
2 passes unanimously. The second variance
3 is for the driveway. Is there a motion in
4 favor of granting the request to increase
5 the size of the driveway as detailed on
6 these plans? Okay. Hearing none, is
7 there a motion to deny the request for a
8 driveway extension variance?

9 MR. MURPHY: Yes, I'll move
10 to deny the driveway variance that is
11 proposed.

12 CHAIRMAN MAGUN: Is there a
13 second?

14 MR. PYCIOR: I'll second
15 that.

16 CHAIRMAN MAGUN: In favor
17 of denial of the variance?

18 MR. MURPHY: Aye.

19 MR. PYCIOR: Aye.

20 CHAIRMAN MAGUN: Aye.

21 MR. SOROKOFF: Aye.

22 MR. DEITZ: Aye.

23 CHAIRMAN MAGUN: So your
24 proposal for the construction of the house
25 is passed. And the driveway, work on it.

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2 Congratulations.

3 MR. MURPHY: With the
4 condition.

5 CHAIRMAN MAGUN: With the
6 condition. Thank you.

7 Our next meeting is May 24 and the
8 minutes we had a couple sets of minutes
9 here, the March 1 and March 22. There is
10 a motion to approve the minutes?

11 MR. MURPHY: Yes, I'll move
12 to approve the minutes from our March 1,
13 2007 meeting and our March 22, 2007
14 meeting.

15 CHAIRMAN MAGUN: Second?

16 MR. PYCIOR: I'll second.

17 CHAIRMAN MAGUN: In favor?

18 CHAIRMAN MAGUN: Aye.

19 MR. PYCIOR: Aye.

20 MR. MURPHY: Aye.

21 MR. SOROKOFF: Aye.

22 MR. DEITZ: Aye.

23 CHAIRMAN MAGUN: The
24 minutes are approved. I don't think there
25 is any other business. Is there a motion

1 ZONING BOARD OF APPEALS - 4/26/2007

2 to adjourn?

3 MR. MURPHY: Yes, I'll move

4 to adjourn.

5 CHAIRMAN MAGUN: All in

6 favor?

7 MR. MURPHY: Aye.

8 MR. PYCIOR: Aye.

9 CHAIRMAN MAGUN: Aye. We

10 are adjourned.

11 (Hearing concluded at 10:35 p.m.)

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STATE OF NEW YORK)
) ss
COUNTY OF WESTCHESTER)

I, Nina Purcell, Notary Public within and
for the State of New York, do hereby certify:

That I reported the proceedings in the
within entitled matter, and that the within
transcript is a true record of said
proceedings.

I further certify that I am not
related to any of the parties to the action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of May, 2007.

NINA PURCELL,
NOTARY PUBLIC

