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5 VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK

6 ZONING BOARD OF APPEALS

7

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9 Held May 24, 2007 at 8:00 p.m., Seven

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

11 10706-1497.

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13 P R E S E N T:

14

Arthur Magun, Chairman

15 David Deitz, Board Member

Stanley Pycior, Board Member

16 Denise Wagner Furman, Board Member

Brian P. Murphy, Board Member

17 (In Absentia)

Sheldon A. Sorokoff, Alternate Member

18

Deven Sharma, Building Inspector

19 Brian Murphy, Board Counsel

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21

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23

24

Nina Purcell, RPR
Shorthand Reporter

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1 ZONING BOARD OF APPEALS - 5/24/2007

2 CHAIRMAN MAGUN: Good

3 evening, everyone. This is the zoning
4 board of appeals, May 24, 2007. There are
5 two items on the agenda tonight. The
6 third item, Case 8-07, Thomas Devlin, is
7 being postponed for future discussion.
8 And we are going to follow the order as
9 printed on the agenda so that we will
10 begin with Case No. 2-07 which has been
11 adjourned from previous meetings. This is
12 Mirjana Alilovic, Euro Deli, 575 Warburton
13 Avenue, view preservation approval for the
14 construction of an outdoor walk-in cooler
15 on an approximately ten by ten raised
16 wooden platform.

17 I should note that the planning
18 board at its meetings on April 19 and May
19 17 considered the application and view
20 preservation recommendation -- site plan
21 and the view preservation recommendation
22 and recommended to the board of appeals
23 that view preservation be approved. Is
24 there someone here tonight to present the
25 application?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. SHARMA: Come on up.

3 MS. PERICIC: What do I have
4 to say?

5 CHAIRMAN MAGUN: There is a
6 protocol. You have to tell us who you
7 are, what you want to do, and why we
8 should grant view preservation.

9 MS. PERICIC: My name is
10 Zlata Pericic. And I'm actually working
11 with Mirjana on this.

12 CHAIRMAN MAGUN: What is
13 your address, working address?

14 MS. PERICIC: Five Jordan
15 Lane, Ardsley. And she is actually
16 putting the eight by eight walk-in cooler
17 which needs to be built -- actually placed
18 on the platform to be able to walk in
19 which is in the corner. And I think it is
20 really -- doesn't obstruct anything. So
21 there was actually a problem with a view
22 from the neighbors, so they decided they
23 are going to screen that which after
24 trouble with the preservation, they
25 approved it.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 So I was told it was just a
3 formality from you to --

4 CHAIRMAN MAGUN: No, no,
5 nothing is a formality.

6 MS. PERICIC: I don't know
7 what else to say.

8 MR. SHARMA: Would you like
9 to make a comment?

10 CHAIRMAN MAGUN: When you
11 make an application to the zoning board of
12 appeals, you have to know what you have to
13 do here. So you have to explain to us why
14 we should grant view preservation to your
15 application.

16 MS. PERICIC: I think it
17 is -- I mean, it's falling into all the
18 requirement for -- I mean for zoning or
19 doesn't really obstruct anybody's view.
20 And it is just pretty much storage place
21 which just happened to have temperature
22 control.

23 CHAIRMAN MAGUN: You don't
24 think there is any issue of view
25 preservation?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. PERICIC: That is my
3 point. Thank you.

4 CHAIRMAN MAGUN: Deven, did
5 you want to say something?

6 MR. SHARMA: That's exactly
7 the point. I don't know if you ever saw
8 the plan that was submitted sometime ago.
9 The location of the structure, the size
10 and shape of it has no view preservation
11 implications at all. It was done because
12 for any construction, view preservation
13 needs to be brought to this board, and
14 that is what was done.

15 Then they looked at it and they did
16 not deliberate on it. It had no
17 implication whatsoever. And that's why I
18 told her it was more of a formality.

19 MS. PERICIC: I'm sorry. I
20 probably should rephrase myself.

21 CHAIRMAN MAGUN: Okay. All
22 right. I think the board -- this
23 application has been floating around for a
24 while. So I think the board has probably
25 had a chance to look at it. Are there any

1 ZONING BOARD OF APPEALS - 5/24/2007
2 questions from the board with regard to
3 the issue?

4 MR. DEITZ: What exactly
5 are we looking at?

6 CHAIRMAN MAGUN: The
7 question of view preservation.

8 MR. DEITZ: I know, but
9 there were previous --

10 CHAIRMAN MAGUN: You mean
11 the application?

12 MR. DEITZ: I mean, do we
13 have --

14 CHAIRMAN MAGUN: We didn't
15 get a new one this time.

16 MR. DEITZ: Are there
17 perspectives to the right, the front, what
18 might be affected?

19 MR. PYCIOR: This is what I
20 have, if you want to take a look at it.
21 We actually don't have one side, but there
22 do not appear to be any windows that the
23 cooler is obstructing on the adjacent
24 property.

25 CHAIRMAN MAGUN: Does

1 ZONING BOARD OF APPEALS - 5/24/2007
2 anybody else on the board have any issues,
3 comments or questions about this while
4 David is looking at this? There was a
5 letter that we received from a neighbor.
6 Is that neighbor here tonight? Do they
7 have any comments? Maybe you could come
8 up and discuss your issues if you would
9 like. If you don't want to, you don't
10 have to. Remember, we are deliberating
11 the view preservation issue. What is your
12 name?

13 MS. TOPILNYCKY: Kelly
14 Topilnycky, 18 Maple. Their freezer is
15 behind us, behind our house.

16 CHAIRMAN MAGUN: Looking in
17 the opposite direction?

18 MS. TOPILNYCKY: Yes. I
19 understand the view preservation normally
20 deals with the view of the Hudson River.
21 But it also talks about preserving and
22 enhancing property values and keeping the
23 character of the community. I realize in
24 this particular instance platform freezers
25 don't necessarily violate visual terms of

1 ZONING BOARD OF APPEALS - 5/24/2007
2 the code. However, their construction and
3 subsequent other changes that she has made
4 have devalued our home among others on
5 Maple Avenue. The installation of this
6 freezer is also not in our opinion in
7 keeping with the village feel that we love
8 so much. In fact, visually it has changed
9 the brick building around it. It is a
10 very white type of freezer.

11 Not only did the owner ignore the
12 fact that the alteration she made impacted
13 the homes behind them; she also dragged
14 out filing the necessary documents for the
15 past ten months. So it has been up and
16 running for ten months.

17 Also, I'd like to point out she is
18 making alterations to a leased space that
19 will have long lasting consequences for
20 the homeowners that live in a
21 residentially zoned neighborhood.

22 CHAIRMAN MAGUN: I'm sorry.
23 Could you --

24 MS. TOPILNYCKY: Like most
25 residents which encourage -- would

1 ZONING BOARD OF APPEALS - 5/24/2007
2 encourage new businesses in the village,
3 we have noticed that when changes are
4 made, the impact to the neighbors that
5 live where they work seem to be ignored.

6 Also, many of the owners who lease
7 out these spaces to the tenants not only
8 charge the high rent but expect them to
9 flit the bill for alterations such as she
10 hasn't paid for the trees to shield the
11 freezer from view.

12 Owners of buildings in the town
13 should be just as accountable to the
14 neighbors and to the town for what tenants
15 do or don't do for the maintenance of the
16 buildings. I, again, like I said, it
17 doesn't necessarily violate view
18 preservation for the Hudson. But it
19 doesn't -- certainly doesn't enhance our
20 property value.

21 CHAIRMAN MAGUN: Let me ask
22 you a question. After you brought your
23 concerns to -- is this the owner of the
24 building or is this the person who is
25 renting?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. TOPILNYCKY: She is
3 renting one half of the bottom floor of
4 the building.

5 CHAIRMAN MAGUN: Was there
6 any response in terms of screening issues
7 or --

8 MS. TOPILNYCKY: Yes.
9 Finally we made some headway, and this is
10 ten months later. They agreed to put
11 plantings in, some pine trees, I guess,
12 some evergreen pine trees. We changed our
13 plantings because our property extends
14 over a small -- a short chain link fence
15 we have. And I also put slats in the
16 fence so we don't have to necessarily look
17 at the building. It was suggested they
18 put a fence up instead of planting trees,
19 but I guess they opted to go with the
20 trees.

21 CHAIRMAN MAGUN: Were those
22 trees planted already?

23 MS. TOPILNYCKY: No, not
24 today. But I guess that's why she is here
25 for the final approvals before planting of

1 ZONING BOARD OF APPEALS - 5/24/2007
2 the trees. You know. It could have been
3 done better with less impact. Yes, we
4 have a fence. Our neighbor does not. Our
5 neighbor has a stone wall and steps that
6 lead up to that particular piece of
7 property. And they can see everything,
8 you know, straight-away.

9 And while everybody -- I'm the only
10 one who has complained, but, you know,
11 people get busy. They don't think about
12 it. We live against a commercial
13 district, so yes, we do put up with a lot
14 of things. Most owners, renters are very
15 cooperative with the neighbors and not
16 particularly in this case. It is not just
17 one alteration with the freezer. They put
18 an industrial sized vent in the roof which
19 is hideous looking. And while the
20 building inspector came over and he took
21 pictures the other day, but the trees are
22 in full bloom. Six months of the year we
23 see the freezer. We see the vent. We see
24 everything.

25 CHAIRMAN MAGUN: Right.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. TOPILNYCKY: Again, it
3 is not blocking our view of the Hudson.

4 It is not necessarily a view preservation
5 issue. But from an issue of a little
6 human kindness and working with your
7 neighbors, the situation could have been
8 handled much better and quicker. And
9 obviously it shouldn't have been up and
10 running for ten months without filing the
11 necessary paperwork with the village.
12 That's it.

13 CHAIRMAN MAGUN: Thank you.

14 MR. SOROKOFF: Who should
15 this be referred to? It doesn't block
16 anybody's view of the Hudson. It is not
17 really a view preservation.

18 CHAIRMAN MAGUN: We have to
19 decide whether it is or it isn't and
20 whether we grant approval. Any structure
21 being built in the district in that zone
22 has to be --

23 MR. SOROKOFF: But assuming
24 that there will be a negative vote here,
25 who does -- who should be involved in the

1 ZONING BOARD OF APPEALS - 5/24/2007
2 beautification, if you will, or
3 preservation? Is there anybody we can
4 refer to?

5 CHAIRMAN MAGUN: Deven?

6 MR. SHARMA: Originally with
7 new construction in the district they may
8 go to the architectural review board.
9 They looked at it, the planning board for
10 site plan review and view preservation and
11 the zoning board for the final granting of
12 the view preservation. The architectural
13 aspects of the view from different vantage
14 points has been adjusted by the suggestion
15 they need to put some kind of screening in
16 the form of evergreen trees, fence or a
17 combination thereof.

18 And the site plan was also reviewed
19 and approved by the planning board at the
20 last meeting with the condition that it
21 will satisfy the architectural review
22 board, who suggests them to review the
23 property. They will do that. And based
24 on that condition, they reviewed the site
25 plan. They did not consider the view

1 ZONING BOARD OF APPEALS - 5/24/2007
2 preservation an issue. So they went ahead
3 and made a recommendation they should
4 be --

5 CHAIRMAN MAGUN: I think
6 that's a good answer. Okay.

7 MS. TOPILNYCKY: That's my
8 question. We already went through the
9 architectural review board once, but they
10 kicked it back to the planning board. But
11 they did say it would come back to them.
12 We weren't sure if that was the case.

13 CHAIRMAN MAGUN: It sounds
14 like that is what is going to happen.

15 MS. TOPILNYCKY: That's what
16 I was thinking, that the screening and so
17 forth wasn't an issue for them.

18 CHAIRMAN MAGUN: Whenever
19 there are issues with nuisance type of
20 activities among neighbors, the building
21 inspector of the village have -- there are
22 codes and laws that have to deal with that
23 beyond the purview of this board of
24 appeals.

25 MS. TOPILNYCKY: Yes, okay.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 Thank you.

3 CHAIRMAN MAGUN: David, did
4 you have any other questions?

5 MR. DEITZ: No, no. I like
6 the -- I'm aware, thanks to what you said,
7 of the condition imposed by the
8 architectural review board and the
9 planning board. And I think also if we
10 approve this, we should make that a
11 condition of our approval.

12 CHAIRMAN MAGUN: Okay. Any
13 other comments, questions? Anyone else in
14 the audience with regards to this
15 application? So, again, this is an
16 application for view preservation approval
17 for the construction of an outdoor walk-in
18 cooler which apparently has already been
19 constructed on an approximately ten by ten
20 raised wood platform. So we have some
21 suggestions about how to deal with this
22 motion? Denise?

23 MS. FURMAN: I have one
24 question. This refrigeration platform has
25 been there already?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. SHARMA: It is. Yes.

3 Despite warnings and notices that don't
4 build it without going through the process
5 without getting a building permit, yes, it
6 indeed was done. And then I think two or
7 three months ago I issued a violation
8 notice, declared that structure to be
9 illegal until it goes through the process.

10 And they are going through the
11 process for the last three or four months.
12 And after tonight's whatever action is,
13 they will need a building permit to
14 legalize it. All this time it has been
15 locked up, and it has not been used to the
16 best of my knowledge.

17 MS. FURMAN: Thank you.

18 CHAIRMAN MAGUN: So does
19 someone want to make a motion with regards
20 to this application and with regard -- and
21 take into consideration the comments that
22 were made?

23 MS. FURMAN: I guess I have
24 one more question. What is the penalty,
25 if any, for failing to follow the process?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. SHARMA: They say -- we
3 are looking at a code that perhaps puts
4 some kind of penalty. Currently there are
5 no penalties. And we can't really --
6 although I'm upset, I'm not punitive. I
7 can't by code be punitive about it, as
8 long as they follow the procedure and
9 legalize it.

10 There are many other situations
11 that arise, they finish the basements or
12 attics or build up decks. They are given
13 the opportunity to legalize within a
14 certain period of time and go through the
15 process and gets legalized. Currently, to
16 the best of my knowledge, there are no
17 penalties involved.

18 MS. FURMAN: So you are
19 saying under the current law and procedure
20 of the village that our choice is to
21 either legalize it or not legalize it, but
22 there is no penalty that can under the law
23 be imposed for the violation that existed
24 when it was functioning without due
25 preservation approval?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. SHARMA: If they fail to
3 legalize, I suppose it doesn't meet all
4 the approvals, they would have to demolish
5 it.

6 MS. FURMAN: I understand.
7 But we are saying now that it will be
8 approved, hypothetically.

9 MR. SHARMA: Hypothetically,
10 yes.

11 MS. FURMAN: Then if it is
12 approved, there is nothing to be done
13 about the prior period where there was a
14 violation.

15 MR. SHARMA: You say the
16 benefit of the doubt, I believe, is given
17 that they didn't know.

18 MS. FURMAN: Thank you.

19 MR. SHARMA: She did it
20 inadvertently.

21 CHAIRMAN MAGUN: This
22 happens periodically over the years in the
23 village and the boards, that applicants
24 have to go through condition
25 applications -- can condition approval

1 ZONING BOARD OF APPEALS - 5/24/2007
2 based on their perception of the issues.
3 If you feel that the applicant may not
4 follow-through on whatever they are
5 promising to do, you can condition
6 approval of the variance in any way we
7 want.

8 MS. FURMAN: Right. But my
9 concern is, and then I'll stop beating
10 this dead horse, that what has happened is
11 there has been a violation of the
12 procedure, and there is nothing that is
13 within our power to do anything about
14 that. All we can do now is either approve
15 in the future or disapprove. But there is
16 no existing penalty for the period of time
17 when the law was not followed.

18 CHAIRMAN MAGUN: Right,
19 right.

20 MS. FURMAN: We just have an
21 up or down vote with no options for --

22 MR. SHARMA: That's how the
23 law is.

24 MS. FURMAN: Thank you.

25 CHAIRMAN MAGUN: Go ahead.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. FURMAN: In that case I
3 make a motion to grant the request for
4 view preservation approval for the
5 construction of an outdoor walk-in cooler
6 on an approximately ten foot by ten foot
7 raised wooden platform.

8 CHAIRMAN MAGUN: Did you
9 want to condition it?

10 MS. FURMAN: Conditioned
11 upon the applicant following all the
12 requirements set by the architectural
13 review board and the planning board.

14 MR. SHARMA: They have to
15 file a building permit with me, and they
16 have to satisfy me and meet all the
17 building codes before they'll finally get
18 a CO and be able to use it.

19 MR. DEITZ: Do they also
20 have to do the planting before they get
21 the CO?

22 MR. SHARMA: Yes.

23 MS. PERICIC: Can I say one
24 more thing before we go? This thing has
25 happened just because when she started,

1 ZONING BOARD OF APPEALS - 5/24/2007
2 when she rented the place, she came in the
3 building over here, and she really
4 misunderstood. She asked and she was told
5 and she is going to have that cooler. And
6 she really misunderstood that she does not
7 need the permit, because I ask her are you
8 sure you need the permit, and she was like
9 I can. They said it's okay. And that's
10 why all this thing happened to begin with.

11 And then I drew the plan for and I
12 indicated the platform. She said they
13 told me and it's really -- I guess it was
14 really a big misunderstanding. That's why
15 this happened.

16 MS. FURMAN: Is my motion
17 out there?

18 CHAIRMAN MAGUN: David
19 asked a question that I think is
20 reasonable. Should the plantings be put
21 in place before -- should we condition
22 that?

23 MR. DEITZ: Before the C of
24 O is issued.

25 MR. SHARMA: Before I issue

1 ZONING BOARD OF APPEALS - 5/24/2007

2 a C of O, all the conditions by all the
3 boards must be met.

4 MR. DEITZ: Fine.

5 MS. FURMAN: I have a
6 problem with that. Does that mean that if
7 it is the wrong season of the year for
8 planting trees, they will -- you won't
9 issue the CO until the trees are planted?

10 MR. SHARMA: Yes. The trees
11 would have to be planted. They need to be
12 in. They don't need to be in bloom.

13 MR. DEITZ: Maybe there is
14 a temporary CO.

15 CHAIRMAN MAGUN: Is there a
16 second to the motion?

17 MR. SOROKOFF: I seconded it
18 twice already. I would like to second it
19 a third time.

20 CHAIRMAN MAGUN: All in
21 favor?

22 MS. FURMAN: Aye.

23 MR. DEITZ: Aye.

24 MR. SOROKOFF: Aye.

25 CHAIRMAN MAGUN: Aye. The

1 ZONING BOARD OF APPEALS - 5/24/2007
2 motion is granted for view preservation as
3 detailed with the couple of
4 recommendations and addendums. I would
5 say conditions. Thank you. Good luck.

6 The next item on our agenda is
7 Anthony Tarricone proposal. The job of
8 the zoning board of appeals is to make a
9 recommendation to the board of trustees.
10 This board is not deciding in any way
11 whether or not Mr. Tarricone can go ahead
12 or not go ahead with this project. That
13 is going to be up to the board of
14 trustees, because he is asking a change in
15 the zoning code.

16 When someone requests a change in
17 the zoning code, the protocol in the
18 village code is that various boards
19 respond. The planning board has responded
20 negatively. The zoning board tonight is
21 going to come to some vote decision on
22 this matter. We have had a number of
23 public hearings, and I guess seeing
24 everyone in the audience I gather you are
25 all here for this, since there isn't any

1 ZONING BOARD OF APPEALS - 5/24/2007

2 other application.

3 I think we did not close the public
4 hearing, so we will entertain further
5 discussion, but I would really ask all
6 the -- both the proponents and the
7 opponents, not to rehash, you know, in
8 tremendous detail all of the points,
9 because I think I may lose the interest of
10 the board. We have had a lot of time to
11 think about this.

12 I want to make one other comment.
13 Brian Murphy, one of our members, could
14 not be here tonight. He has listened to
15 the presentations. He has written down
16 some thoughts that I'll bring out and
17 either read or paraphrase as to how he
18 feels. But I thought that since all of
19 the board at various times has heard this
20 proposal, read, and has had a chance to
21 read through it, that all six of us could
22 actually weigh in on a recommendation to
23 the village.

24 Having said that, I just want to
25 talk to the board for a second about

1 ZONING BOARD OF APPEALS - 5/24/2007
2 whether we are comfortable having a direct
3 yeah-nay vote, which I kind of would
4 favor -- are we in favor of the proposal
5 or not in favor of the proposal -- as
6 opposed to lots of memos that we could
7 pass to the trustees saying that Denise
8 felt this and David felt that and Arthur
9 felt this. So I would kind of hope we can
10 just after discussion have a vote. I
11 would like to hear other people's opinion
12 about that, if you have any.

13 MR. DEITZ: Well, I don't
14 know if we are going to have a split
15 decision or not. If we do, I may want to
16 have an opinion.

17 CHAIRMAN MAGUN: Sure. I
18 don't have a problem with that. In times
19 past in the last few years on the board
20 when there have been zoning code issues,
21 sometimes we didn't vote. We just kind of
22 said this is what we are going to tell the
23 trustees. Any other thoughts about how to
24 proceed? I'll take that as an assent that
25 we will go forward as I described.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 So I think we are willing to listen
3 to whoever wants to add anything to
4 previous presentations. And the board may
5 have some questions of people who are here
6 tonight. And then we are going to discuss
7 it and come to some decision. Yes, sir.

8 MR. DAVIS: Good evening.
9 I'm Robert Davis. I'm the attorney for
10 the Tarricones and JAC. Those are two of
11 the petitioners. It is not just the
12 Tarricones. There are two other
13 petitioning owners. This is our third
14 appearance before the board so I'll be
15 brief.

16 We were last before you on April
17 26, and at that time I discussed at some
18 length the significant changes we had made
19 from the original proposal last fall, in
20 three major respects. No. 1 was to
21 drastically reduce the number of
22 properties involved to those fronting on
23 Saw Mill River Road/9A; No. 2, to change
24 the requested zone from MR-C to the more
25 restrictive MR-O and No. 3, to place

1 ZONING BOARD OF APPEALS - 5/24/2007
2 greater restrictions on Mr. Tarricone's
3 proposed self-storage use which would now
4 be permitted only by special permit and
5 have quite a few other restrictions,
6 including being limited to 50 percent
7 coverage under the MR-0 zone.

8 So there is no need, and I won't
9 take your time to repeat what we went
10 through last time. We provided copies of
11 the presentations to you. There are just
12 a couple of points I would like to make
13 tonight before turning the floor over to
14 Mr. Tarricone.

15 As requested, we presented the
16 various boards with some conceptual
17 renderings of how the proposed storage
18 building could be located on the site and
19 what it might look like. And having done
20 that, I think there is a natural tendency
21 in some areas to get bogged down with
22 those particular renderings and lose sight
23 of general concepts. So I would like the
24 board to note that our conceptual site
25 plans and architectural renderings are not

1 ZONING BOARD OF APPEALS - 5/24/2007

2 etched in stone by any stretch. They are
3 simply given to provide some idea of what
4 could take place on the property and the
5 specific development.

6 It is important to note it would be
7 subject to review by your board as a
8 special permit authority, by the planning
9 board under site plan review and by the
10 architectural review board in connection
11 with the appearance of the property. So
12 all we are asking at this juncture is for
13 the zoning amendments that will permit
14 that analysis to take place by recognizing
15 the unique situation of these particular
16 four properties located on Route 9A and
17 permitting them to be developed in a
18 manner that is consistent with the
19 character of 9A and also as a transition
20 between the commercial development and the
21 residential properties to the rear.

22 The other point that might be
23 sometimes lost in the process as people
24 speak for and against is that, as you
25 know, all of the village boards serve all

1 ZONING BOARD OF APPEALS - 5/24/2007
2 the residents of the village and must act
3 in the interests of all of the residents
4 and taxpayers, not just in the interest
5 either of the people proposing a project
6 or the people opposing it. And in this
7 case just for accuracy of the record to
8 give you some figures at the end of the
9 last meeting 14 not 19, 14, 14 of the 21
10 properties comprising the neighborhood
11 petitioned against the original proposal,
12 the much more intensive proposal, only
13 several of them vocally as one entire
14 family that normally has several people
15 speak.

16 Even at the outset at least a third
17 of the neighborhood actually petitioned
18 not only supported but petitioned for the
19 original proposal which was to rezone the
20 entire neighborhood at that point. We
21 demonstrated that with respect to the
22 revised proposal, that proposal that is
23 currently before you, is actually
24 supported by all of the people who are
25 actually adjacent to it or directly across

1 ZONING BOARD OF APPEALS - 5/24/2007

2 the street from it, and we demonstrated
3 that.

4 The few vocal opponents that have
5 appeared in connection with the project
6 either operate a nonconforming use in the
7 neighborhood themselves which is somewhat
8 ironic or will be unable to see the two
9 newly involved properties from their homes
10 at least all or most of those properties.
11 And we would respectfully submit that the
12 neighbors really haven't demonstrated --
13 who have opposed it, have not demonstrated
14 any significant potential adverse impact
15 on them as a result of the revised
16 proposal.

17 And, again, respectfully I think
18 the fact that their position has remained
19 very unchanged, completely unchanged,
20 actually, since last fall for nine months,
21 despite many significant modifications
22 that have been made in response to their
23 concerns to mitigate the proposal, with
24 still just blanket opposition, casts doubt
25 on their position. They have rejected for

1 ZONING BOARD OF APPEALS - 5/24/2007

2 the record many invitations to meet and
3 offer suggestions despite the efforts to
4 accommodate all of their concerns.

5 On the other hand, you have had
6 many more village residents speak to the
7 various boards in favor of the proposal in
8 their minds in the interest of the entire
9 village, and also almost 200 people have
10 formally expressed their support in one
11 form or another.

12 To that end, in addition to all of
13 the other modifications which have been
14 made in response to the comments of the
15 public and the board since your last
16 meeting, something new is that the two
17 petitioners we represent have gone even
18 further and have proposed a program of
19 significant contributions that they would
20 make for the benefit of the entire
21 neighborhood in the event the proposal is
22 eventually approved. And Mr. Tarricone
23 will take you through that proposal.

24 In sum, in light of your -- in view
25 of your board's duty which we have just

1 ZONING BOARD OF APPEALS - 5/24/2007
2 been discussing, the zoning ordinance
3 calls on this board to report to the
4 village board its views as to the
5 desirability and practicability of the
6 proposal. So we would hope it would make
7 a report which expresses what you see as
8 the value and the positives in the
9 proposed amendments and any suggestions
10 that you might have so as to allow this
11 specific development proposal of the
12 rezoned properties to be considered in
13 detail before the various boards and the
14 public. Thank you. I would like to have
15 Mr. Tarricone say a few words.

16 CHAIRMAN MAGUN: Thank you.

17 MR. TARRICONE: Good evening
18 and thank you all for coming, everybody in
19 the community for showing up on our
20 behalf. I appreciate that. I owe a debt
21 of gratitude to everyone and I would like
22 to just make this short.

23 The proposal is to change the zone
24 on 9A from 2R which is two-family
25 residential to MR-0 which is mixed use

1 ZONING BOARD OF APPEALS - 5/24/2007
2 residential. This is the area we are
3 talking about. It is located on 9A
4 directly across the street from
5 Greenburgh, where Greenburgh zone is light
6 industrial. This is zoned light
7 industrial, and 200 feet down the road
8 over here is zoned commercial, which is
9 Yonkers.

10 As you are aware, we have
11 demonstrated why the community support for
12 this proposal, the neighbors closest and
13 thereby most affected dramatically, have
14 spoken in favor and submitted petitions in
15 favor of this change. Rather than go over
16 the proposal in its entirety, I'll go over
17 the finalized proposal with the added
18 neighborhood enhancement program which I
19 have submitted to you in book form. I
20 think you all have a copy of it.

21 There has been repeated comment
22 about the possible effects to the
23 neighborhood. I remind the board that
24 three of the four petitioners have lived
25 in the neighborhood for over 50 years and

1 ZONING BOARD OF APPEALS - 5/24/2007
2 are more sensitive to the effects on the
3 neighborhood than anyone. Twice within
4 the last 60 days we have sent each
5 neighbor the proposal in writing with an
6 invitation to comment and share ideas.

7 As of this date we have received no
8 comments from any of the neighbors. The
9 Westchester County planning board has
10 twice reviewed this and has twice given a
11 recommendation of this proposal in
12 writing.

13 To better understand the possible
14 effects on the area, we hired a
15 professional real estate valuation expert
16 who has put in writing his expert opinion
17 that concludes there will be no negative
18 effect on the value of the homes or the
19 marketability of the homes in the area as
20 a result of the project. In fact,
21 investment in an area typically increases
22 property values because it shows the
23 viability in the area and the willingness
24 of the property owners to invest in their
25 property.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 This expert attended the zoning
3 board meeting -- I think it was the
4 planning board meeting -- to answer any
5 questions that -- regarding any findings.
6 He was here physically.

7 We are committed to this
8 neighborhood and have been for over the
9 last 50 years. And to further show our
10 commitment, we have proposed the five
11 point neighborhood enhancement program.
12 No. 1, we plan on donating to the village
13 upon the approval of the green space that
14 fronts on Holly Place as a park. That
15 would be all this area. This park is
16 approximately 5,250 square feet and is
17 approximately the same size of the average
18 home in the area -- the average property
19 size in the area. So this lot is the same
20 as what everyone's home usually is.

21 We are offering to provide street
22 trees for lining the neighborhood. These
23 trees would be planted by the village. We
24 provide up to ten trees or \$5,000 and you
25 can put them anywhere you want. The

1 ZONING BOARD OF APPEALS - 5/24/2007

2 village can say put it over here, put it
3 over here, make the neighborhood look
4 beautiful.

5 We are also offering to provide a
6 one time matching fund of up to \$500 per
7 household in the neighborhood for any
8 beautifications to the exterior of the
9 homes within that neighborhood. So the
10 improvements must be made and completed
11 within the first year after the final
12 approval of our proposal. But what we are
13 saying is we are ready to match what you
14 guys do. You want to make this
15 neighborhood beautiful; so do we. If you
16 plan on doing something nice in your
17 neighborhood, you want to do something to
18 make it more beautiful, we will match up
19 to \$500 worth of your improvements.

20 We have also created a neighborhood
21 beautification committee to award a \$500
22 annual award paid for by Hastings
23 Self-Storage. This committee will award
24 and direct to that owner who has best
25 improved or maintained their property that

1 ZONING BOARD OF APPEALS - 5/24/2007
2 year. This is an award distributed by
3 whoever the neighborhood committee chooses
4 to whomever the neighborhood committee
5 chooses. They elect the committee. They
6 elect who is going to win. They pay them
7 \$500, and Hastings Self-Storage funds the
8 project forever.

9 Additionally, we are going to
10 provide a ten percent discount to all the
11 neighbors in the area for storage.
12 Lastly, it should be noted that the
13 driveways that are located on the corner
14 of Holly Place and Edison which are
15 here -- these are all driveways now; they
16 are owned by Joanne and Richie Shea --
17 will be removed and relocated to the south
18 side of the property, which is here. This
19 will increase the green space by 25 feet
20 on the south side of Holly Place, so you
21 have 25 more feet of green space here and
22 you have on the north side a neighborhood
23 park that is 150 feet by 35 feet. So this
24 whole area would be green.

25 In summary, we are here to change

1 ZONING BOARD OF APPEALS - 5/24/2007
2 four properties that front on 9A/Saw Mill
3 River Road from residential to MR-0 which
4 is mixed use residential. Two of the
5 properties are already commercial, which
6 is this property here. That is the Sprint
7 dealership and this is Hastings
8 Self-Storage. One of the properties will
9 be deed restricted which is this property
10 here for residential use only within the
11 MR-0 zone. So this piece of property, all
12 of this here, this actually is not
13 included in the proposal. It is just this
14 property. This property here would be
15 deed restricted for residential use only.
16 You couldn't have commercial use there.

17 And then the last property over
18 here would be where we would expand the
19 existing self-storage. So that is the
20 existing building and this is the
21 proposal. There would be an increase of
22 property tax revenue of approximately
23 \$150,000 with virtually no demands on
24 village services.

25 The removal of the blacktop

1 ZONING BOARD OF APPEALS - 5/24/2007
2 driveways on the corner of Holly Place and
3 Edison owned by Richie and Joanne Shea
4 would increase the green space or would,
5 again, make this whole area look very park
6 like, and the donation of the neighborhood
7 park, the cornerstone of our five point
8 neighborhood enhancement program. This is
9 a win/win proposal. We respectfully
10 request that you provide a positive
11 recommendation to the board of trustees.
12 Thank you.

13 CHAIRMAN MAGUN: Thank you.

14 MR. TARRICONE: Do you have
15 any questions?

16 CHAIRMAN MAGUN: Actually,
17 yes. I just want to -- I'm sure this was
18 gone over but just a couple of things I
19 wanted to ask you. The property
20 immediately north of the Hastings
21 Self-Storage, the Borelli property, is
22 that that building there?

23 MR. TARRICONE: That is this
24 here.

25 CHAIRMAN MAGUN: That

1 ZONING BOARD OF APPEALS - 5/24/2007

2 building. So who owns that?

3 MR. TARRICONE: Al Borelli.

4 CHAIRMAN MAGUN: And he is
5 one of the petitioners?

6 MR. TARRICONE: Correct.

7 CHAIRMAN MAGUN: And is it
8 possible that you could buy that property
9 from him and is that something you have
10 ever explored?

11 MR. TARRICONE: You know, it
12 is a very small piece of property.

13 MR. DAVIS: He originally
14 owned the property.

15 MR. TARRICONE: I actually
16 had to sell it to be able to develop this
17 other piece.

18 CHAIRMAN MAGUN: What other
19 properties do you own actually in this
20 area?

21 MR. TARRICONE: Across the
22 street we own a piece that is in
23 Greenburgh which is 7,000 square foot,
24 7500 square foot.

25 CHAIRMAN MAGUN: Directly

1 ZONING BOARD OF APPEALS - 5/24/2007

2 across?

3 MR. TARRICONE: No, it is up
4 the block over here, over here somewhere,
5 basically about here.

6 CHAIRMAN MAGUN: Okay.
7 That is it?

8 MR. DAVIS: He also owns a
9 rental property just to the west of -- the
10 two-family rental house that is not part
11 of the rezoning proposal.

12 MR. TARRICONE: Right. This
13 is also our two-family house.

14 CHAIRMAN MAGUN: What you
15 just said to us, you said adjacent
16 neighbors who would be most affected by
17 this were strongly in favor of the
18 proposal. So who are they?

19 MR. TARRICONE: Well, the
20 county is. Everyone across the street
21 over here, they are.

22 MR. DAVIS: Everyone across
23 the street has signed the petition.

24 CHAIRMAN MAGUN: What about
25 on Holly Place?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. TARRICONE: He is. We
3 are obviously. And we haven't seen the
4 rest of the other ones. He is not part of
5 the petition. This is (indicating).

6 CHAIRMAN MAGUN: So when
7 you said the people are in favor of the
8 proposal, who are most impacted by it, no
9 one on Holly Place?

10 MR. TARRICONE: He is and I
11 am. We are both right here and there.

12 CHAIRMAN MAGUN: I guess
13 those are my immediate questions. Anybody
14 else on the board want to ask
15 Mr. Tarricone or Mr. Davis any questions?

16 MR. PYCIOR: Mr. Tarricone,
17 did you tell the neighbors, notify the
18 neighbors of the enhancement plan as well
19 and ask them to respond to that and was
20 there a response?

21 MR. TARRICONE: Yes, we did.
22 We sent them a letter along with a
23 neighborhood enhancement program and a
24 copy of this. And no, we did not get a
25 response.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 CHAIRMAN MAGUN: Anybody
3 else?

4 MS. FURMAN: I have two
5 questions. Then I would really like to
6 hear the comments from people in the
7 audience which may answer some of those
8 questions or raise other ones. Debbie
9 Tarricone, 15 Holly Place, is she related
10 to you?

11 MR. TARRICONE: That's my
12 wife, my beautiful wife. Married 16
13 years, four children. That's why we were
14 late. We were at baseball games.

15 MS. FURMAN: And JAC or JAC?

16 MR. DAVIS: That's the
17 corporation that owns the self-storage
18 building.

19 MS. FURMAN: And the
20 principals of that corporation are?

21 MR. DAVIS: The Tarricone
22 family. That's why we say two of the
23 petitioners are the Tarricones, themselves
24 and their corporation.

25 MS. FURMAN: It is all the

1 ZONING BOARD OF APPEALS - 5/24/2007

2 Tarricones, just individual or as a
3 corporation?

4 MR. DAVIS: Two of them are.
5 Then there are the Sheas and the Borelli.

6 MS. FURMAN: Thank you.

7 CHAIRMAN MAGUN: Any other
8 questions? So is there anyone in the
9 audience tonight who wishes to speak? I
10 know some of you have spoken before. I
11 don't mind if you reiterate the main
12 points. That's fine. I think it helps us
13 understand the issues. Yes, ma'am.
14 Please give us your name and address and
15 your position on the map.

16 MS. WRAY: My name is Linda
17 Wray. I live at 37 Edison Avenue. My
18 family has resided there for over 50
19 years.

20 CHAIRMAN MAGUN: Show us
21 where.

22 MS. WRAY: I am this house.
23 No. This house (indicating).

24 CHAIRMAN MAGUN: Okay.

25 MS. WRAY: My family is

1 ZONING BOARD OF APPEALS - 5/24/2007
2 there over 50 years. We have just totally
3 renovated the house from top to bottom.
4 We came before you. You approved my
5 porch. And we followed all the zoning
6 laws.

7 I would like to respond to some of
8 the things that Mr. Tarricone said
9 tonight. I don't want to reiterate
10 anything we have already gone through. He
11 has mailed the neighbors letters. He has
12 proposed this neighborhood beautification,
13 because obviously he feels our
14 neighborhood is not a beautiful
15 neighborhood which totally burns me up
16 inside. And he feels he has to fund us to
17 take care of our property, which we are
18 all already doing.

19 And we haven't responded to him.
20 And the lack of response is because we
21 believe if we are going in and planning
22 what he is going to do with this
23 self-storage, that we don't believe is
24 supposed to be there to begin with,
25 because it overshadows our neighborhood

1 ZONING BOARD OF APPEALS - 5/24/2007
2 from where it is, if you bring it closer
3 it will just overshadow it more. And it
4 is gigantic. You can see it from my
5 kitchen window looking north. You can see
6 it from my front door looking east. You
7 can see it when you park in front of my
8 house. It is there above everything.

9 And we haven't responded to him
10 because we are not for it. And if we show
11 that we are coming to talk about it to fix
12 it, so it will be the way we want it to
13 be, then that says we are for it. So we
14 have not responded to him. The rest of my
15 neighbors, they are back there. We have
16 all talked about it. I think we need to
17 ask who lives next-door to the property.
18 The property on Holly Place next-door to
19 his property is owned by him. The people
20 across the street on the corner of Holly
21 Place are on our petition. And you need
22 to know the real facts. And my friends
23 have them with us. Thank you.

24 CHAIRMAN MAGUN: Yes,
25 ma'am.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. CARUSO: Good evening.

3 Carolyn Caruso, 45 Marion. That is the
4 corner of Holly and Marion Avenue.

5 CHAIRMAN MAGUN: Could you
6 point your house out?

7 MS. CARUSO: Sure. Right
8 here (indicating). I'd just like to
9 point out I know we are trying to clarify
10 some facts, and I don't know what
11 petitioner Mr. Davis was referring to
12 about -- I know that one of the members
13 suggested or mentioned our petition at the
14 first application. So we have redone our
15 petition, and there are 17 properties on
16 Holly, Edison and Marion that fall within
17 the Village of Hastings-on-Hudson, not 17
18 different signatures, 17 properties, of
19 which I have copies for all of you tonight
20 to see.

21 The only homeowners who are in
22 favor of this property are the Sheas, the
23 other, Mr. Borelli, and the self-storage.
24 Supposedly there is going to be no change
25 to those properties, so I'm not sure why

1 ZONING BOARD OF APPEALS - 5/24/2007

2 they are included in this application.

3 And the other point I would just
4 like to point out is this truly is a use
5 variance. He wants to change the use of
6 the zoning in this area. And to do that
7 before this board, he would have to prove
8 factors which he cannot. This is to
9 completely serve one person, one family,
10 while destroying a whole neighborhood.
11 This is just to satisfy one person's
12 business interest while destroying a whole
13 neighborhood, and I think it is important
14 that you note that.

15 He owns those properties that he
16 had -- that you suggested. I've mentioned
17 that before. He owns a commercial lot
18 directly across the street. This is a
19 residential neighborhood, and it should
20 remain that way. Thank you.

21 CHAIRMAN MAGUN: What does
22 your petition actually say?

23 MS. CARUSO: That we are in
24 opposition. I'll distribute copies for
25 all of you. And as for the enhancement

1 ZONING BOARD OF APPEALS - 5/24/2007

2 and the park, I'd like to just talk about
3 this park for a minute. When we had the
4 public hearing before the board of
5 trustees, the Tarricone family, actually,
6 Mrs. Tarricone spoke how she had to usher
7 her children inside, that this area has
8 become so dangerous. There was a drive-by
9 shooting. There is foul language by
10 construction workers or whatever is across
11 the street from her property. So I'm a
12 little confused why you would want to
13 establish a park there for other children
14 to be, to sit, to play. I'm not sure, if
15 it is such an unsafe neighborhood, why we
16 would be adding a park to that area.
17 Thank you.

18 CHAIRMAN MAGUN: Just let
19 me -- again, this, what you gave us here
20 are 17 property owners --

21 MS. CARUSO: That's correct.

22 CHAIRMAN MAGUN: -- who
23 live in this neighborhood?

24 MS. CARUSO: Correct. I can
25 point out the houses to you.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 CHAIRMAN MAGUN: Okay.

3 MS. CARUSO: This is the
4 house he owns. This is 57 Holly Place,
5 Mr. Cohn, Diane and Steve Cohn.

6 CHAIRMAN MAGUN: Did they
7 sign that?

8 MS. CARUSO: Yes. This is
9 Sal Gargiulo, oh, no, I'm sorry. Mike
10 Carnegie's (ph) property. This is Sal
11 Gargiulo. He has two lots here. This is
12 my home. This is the Perpetti (ph) home.
13 This is the Merchant home. This is the
14 Cartnia (ph) home. This is -- I don't
15 know John and Nydia's last name. I can't
16 pronounce it. This is the Roberto home.
17 This is Ray Nicewig's (ph) home. This is
18 the Aguilar home, and this is Vinnie
19 Sivitano's home.

20 MR. DEITZ: And all these
21 people are opposed?

22 MS. CARUSO: Yes, they are.
23 Thank you.

24 MS. WRAY: You forgot
25 Edison.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. CARUSO: I forgot
3 Edison. I'm sorry. And these two here on
4 Edison, Angela and Linda Wray and Gina
5 Gueraro (ph) who is directly next-door and
6 the Weavers. I'm sorry.

7 MR. SOROKOFF: Miss, you
8 made a statement that the presence of the
9 self-storage facility had been -- had had
10 a bad effect.

11 MS. CARUSO: I didn't state
12 that.

13 MR. SOROKOFF: Well, am I --

14 MS. CARUSO: It towers 5
15 feet above the homes. If you are asking
16 me if it is an eyesore, absolutely.

17 MR. SOROKOFF: I got the
18 impression you were not in favor of it
19 originally somehow.

20 MS. CARUSO: I wasn't there
21 when it was self-storage. I bought my
22 house subject to the existing
23 self-storage. I wasn't there prior.

24 MR. SOROKOFF: I understand.

25 MS. CARUSO: I'm not sure

1 ZONING BOARD OF APPEALS - 5/24/2007

2 what your question is.

3 MR. SOROKOFF: My question
4 was, do you think it has had a bad effect
5 when the original self-storage was put in,
6 but you didn't live there.

7 MS. CARUSO: I didn't live
8 there at the time. Thank you.

9 CHAIRMAN MAGUN: Anyone
10 else? Yes, ma'am.

11 MS. MANLEY: My name is
12 Linda Manley. This is the first
13 hearing -- it is not the first time I've
14 heard about this --

15 CHAIRMAN MAGUN: You have
16 to state the address.

17 MS. MANLEY: Address is
18 Nepera Place, Hastings-on-Hudson. I am
19 directly across the parkway. My house --
20 the front of my house faces the back of
21 this storage facility.

22 CHAIRMAN MAGUN: Across Saw
23 Mill Parkway?

24 MS. MANLEY: Yes, I am
25 directly across the Saw Mill Parkway.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 Where is the facility? This would be the
3 parkway (indicating).

4 CHAIRMAN MAGUN: That's 9A.

5 MS. MANLEY: I am right
6 here. This is my property right here.

7 CHAIRMAN MAGUN: On the
8 other side of the parkway?

9 MS. MANLEY: On the other
10 side of the parkway. My family has lived
11 there close to 50 years. I bought the
12 home from my parents. The facility as it
13 is now is an eyesore, as I look out my
14 living room window. And if it is made any
15 bigger, it will only be a bigger eyesore.

16 I think for him to build a park is
17 nice. But I believe the Tarricone family
18 also owned other properties at the
19 beginning of my street that were left in
20 shambles, a gas leak. And we as residents
21 got together and tore a building down.

22 I mean, I don't know if anybody on
23 the board was here that many years ago,
24 but we got together and tore the building
25 down ourselves. And the village then

1 ZONING BOARD OF APPEALS - 5/24/2007
2 subsequently planned to grass and put up a
3 fence so we no longer had to look to that
4 eyesore. But the neighborhood got
5 together on their own to do that. So I
6 have concerns about properties and where
7 this is going.

8 CHAIRMAN MAGUN: Thank you.
9 Yes, ma'am.

10 MS. MERCHANT: Lynda
11 Merchant, 35 Marion Avenue, around the
12 corner. I think Mrs. Wing (ph) just
13 pointed it out. The new plan with the
14 park and the neighborhood didn't come from
15 the neighborhood. That came from a board
16 member suggesting that setting this
17 storage unit back farther and giving us a
18 park might work or might be a solution.

19 So that the land donated for the
20 park will require village money to plant
21 the trees that they are going to give to
22 you. It also would be village money to
23 maintain that park afterwards that they
24 are donating to the village and probably
25 getting some kind of tax writeoff for

1 ZONING BOARD OF APPEALS - 5/24/2007

2 donating it to the village. I can't see
3 where this is anything the village would
4 want to consider at this moment.

5 The other thing I would like to
6 say, rather than recouping everything I
7 said in the previous 13 meetings we've
8 been to, I would like to thank the Sheas
9 for their deed restriction, because they
10 didn't have to do that. And I think their
11 deed restriction says it is a private
12 home. So if this zoning change does pass,
13 at least we are not looking at another
14 commercial property on our corner. So I
15 would like to thank them for that. I
16 think that was a wonderful thing they did
17 for us.

18 Now I have lived in the house
19 prior, so if you have a question about the
20 first storage unit, I am -- you know, I'll
21 do my best to answer your question.

22 MR. SOROKOFF: I just
23 thought I heard her say something about
24 the first one.

25 MS. MERCHANT: The first one

1 ZONING BOARD OF APPEALS - 5/24/2007
2 came about because there were two other
3 businesses in there that were -- one was
4 the oil company that had been there
5 forever, and I bought my house when the
6 oil company was still sort of active, not
7 really active but sort of active. Then it
8 changed to a school bus repair kind of
9 place, and the fumes were kind of bad in
10 the morning and the afternoon when the
11 buses were coming and going. And you
12 know.

13 We did go to meetings, but I have
14 to admit my ignorance when I went to these
15 meetings because I had no clue what we
16 were doing. We were trying to get
17 something that was less intrusive in our
18 neighborhood than buses being started at 6
19 o'clock every morning, you know, diesel
20 and so, you know.

21 I had no clue really that this was
22 going to be this tall. I'm not a visual
23 person. But I think also to answer a
24 point, the house actually that the
25 Tarricones own, the two-family house, I

1 ZONING BOARD OF APPEALS - 5/24/2007
2 used to know the woman who lived there
3 prior to them buying the house. And I can
4 remember sitting in her kitchen and her
5 crying because she had no more sunlight in
6 her kitchen window because the storage
7 unit was so tall behind her. Thank you.

8 CHAIRMAN MAGUN: Anyone
9 else? Yes, sir.

10 MR. MERCHANT: I'm Corey
11 Merchant, 35 Marion Avenue, same house. I
12 just wanted to say that I really wanted to
13 implore you guys to put yourselves in the
14 position of all these people who are here,
15 myself included. Hopefully you can see
16 how much, almost how much of an insult it
17 is not only to us but to our houses, to
18 families we have raised, friends we have
19 made. I've spent my whole life on this
20 street. I'm 21 years old now. I've
21 gotten scraped knees, scraped elbows. But
22 never, never ever had to deal with the
23 bully until just now. So --

24 CHAIRMAN MAGUN: Let's try
25 to be --

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. MERCHANT: I'm sorry.

3 It is really easy to get really worked up
4 about this stuff. I'm not going to rehash
5 anything like that. I just wanted to say
6 that.

7 CHAIRMAN MAGUN: Okay. Is
8 there anyone else who wishes to make any
9 comments?

10 MR. MERCHANT: My name is
11 Marty Merchant. I live at 35 Marion
12 Avenue.

13 CHAIRMAN MAGUN: You are
14 all together in the same house?

15 MR. MERCHANT: Yes. I just
16 want to clarify a couple of things in
17 terms of the back story. The implication
18 of Mr. Davis that many people are on board
19 for the original proposal, in fact, we
20 were misinformed or misled, in fact, about
21 what the original proposal entailed. And
22 once the neighborhood and those that had
23 inadvertently signed that original
24 petition, once they realized in fact the
25 house that we adored was going to be torn

1 ZONING BOARD OF APPEALS - 5/24/2007
2 down and that the storage facility was
3 going to be expanded by 50 percent which
4 was not in the original letter which we
5 all -- most of us still have in our files,
6 was not in the original letter, that
7 intent was not in the original letter that
8 was given to us, the original
9 solicitation.

10 So this has not been a process of
11 mitigating an original proposal to adapt
12 it to the wishes of the neighborhood. In
13 fact, what the Tarricones get by this new
14 proposal is exactly the same thing as they
15 asked for in the beginning. They may have
16 respun it or reconfigured it, but, in
17 fact, the planning board was actually a
18 little astonished based on their
19 recommendations to the Tarricones by
20 adjusting their plan that, in fact, the
21 facility had actually grown over time in
22 terms of the square footage, not only its
23 footprint, but because it is connected in
24 certain ways. So just I want to make sure
25 you know that there hasn't been a whole

1 ZONING BOARD OF APPEALS - 5/24/2007

2 lot of adjustment on the part of the
3 petitioners.

4 Now, I am in -- I'm asking you to
5 oppose the recommendation of this zoning
6 change. And I do want to -- I can't get
7 up here again and not mention that one of
8 the overwhelming arguments implied and
9 explicit to the board -- to the citizens
10 of Hastings has been the tax advantage to
11 the community and to the taxpayers in the
12 community. And unless the village offices
13 are -- unless I'm asking the wrong
14 questions or the village offices are
15 giving me the wrong figures, the storage
16 facility, 1337 Saw Mill River Road, paid
17 last year \$20,000 directly to the village.
18 Every year preceding that since it was
19 built, of course, the amount of taxes that
20 it has paid directly to the village has
21 been less, because the taxes go up every
22 year, as we know. So in aggregate the
23 amount of money that has been paid to the
24 village, I heard the figure throughout
25 these meetings of \$150,000. The aggregate

1 ZONING BOARD OF APPEALS - 5/24/2007

2 amount of money that has been directly
3 paid to the village by the storage
4 facility has yet to reach \$150,000.

5 In fact, the portion of the
6 taxes -- this is a matter of public record
7 too. And, again, I don't want to get up
8 and misstate ourselves, but the public
9 records show that the amount of money that
10 trickles back to Hastings from the Town of
11 Greenburgh taxes that the storage facility
12 pays, that amount of money will eventually
13 be drastically reduced because since the
14 storage facility has been built, the
15 company has grieved their tax assessment,
16 and it is a matter of public record they
17 want it reduced by 90 percent.

18 I'm a schoolteacher here in town.
19 I had my budget frozen in January. I
20 teach art. I couldn't buy supplies
21 because my school district has to sit
22 there with a checkbook in hand waiting for
23 these big grievance negotiations to be
24 resolved so that they cannot only -- they
25 have to pay back people like JAC the

1 ZONING BOARD OF APPEALS - 5/24/2007

2 amount of money that they have overpaid
3 if, in fact, they negotiate a lower
4 assessment.

5 I can't believe I said that in that
6 amount of time, but I have talked and
7 looked at this so often. So, in fact, to
8 me as a taxpayer and as a citizen I don't
9 find it a compelling argument in terms of
10 the taxes. And I certainly as a homeowner
11 in this area, I don't find any kind of
12 compelling argument. I just can't
13 imagine. I just can't conceive of the
14 arrogance and conceit that you would have
15 to have to ask a neighborhood of people
16 that you have lived with, that you are
17 going to buy them off with five hundred
18 bucks apiece. I want to enhance your
19 neighborhood while I tear down my
20 beautiful home and increase my business so
21 my property profits go up. I just can't
22 imagine how that works.

23 And I don't think we should be
24 confused or misled by what the true
25 motives are here. And at no time has the

1 ZONING BOARD OF APPEALS - 5/24/2007
2 Tarricones -- of course, we have to go
3 back now about two years. But at no time
4 have they actually come to the
5 neighborhood and said this is my dilemma.
6 What should I do? Thank you.

7 CHAIRMAN MAGUN:
8 Mr. Merchant, just to clarify, show us,
9 you parceled out the tax issue in a way
10 that I understand what you were doing
11 there. But the figure of 150,000
12 represents the aggregate taxes. Property
13 tax paid included school tax.

14 MR. MERCHANT: You are
15 asking me?

16 CHAIRMAN MAGUN: Did you
17 investigate it or just investigated the --

18 MR. MERCHANT: That figure
19 has been bandied about these meetings and
20 that figure is in the full page ad that
21 appeared in favor of the storage facility
22 that was in the last weeks.

23 CHAIRMAN MAGUN: You said
24 \$20,000. You are talking about the amount
25 of money that goes to -- directly to the

1 ZONING BOARD OF APPEALS - 5/24/2007

2 village?

3 MR. MERCHANT: That's public
4 record.

5 CHAIRMAN MAGUN: I'm
6 just -- I don't want there to be some
7 thinking that this figure is totally made
8 up, and Mr. Tarricone can address that.

9 MR. MERCHANT: Which figure?

10 CHAIRMAN MAGUN: The
11 150,000.

12 MR. MERCHANT: It sounds to
13 me and, again, it's implicit that \$150,000
14 is being delivered to the coffers of
15 Hastings-on-Hudson.

16 CHAIRMAN MAGUN: You made
17 your point that that is not the case.

18 MR. MERCHANT: Right. All
19 set?

20 CHAIRMAN MAGUN: Okay,
21 thanks. Any other comments from the
22 audience?

23 MR. GARGIULO: Sal Gargiulo,
24 One Holly Place, Hastings-on-Hudson. I've
25 been here --

1 ZONING BOARD OF APPEALS - 5/24/2007

2 CHAIRMAN MAGUN: You spoke
3 last week, right, last month? And it is
4 fine for you to speak again. Just try not
5 to rehash it.

6 MR. GARGIULO: I wanted to
7 know whether the board received the
8 pictures.

9 CHAIRMAN MAGUN: I'm not
10 sure what pictures you are referring to.

11 MR. GARGIULO: I gave it
12 to -- this is what we were up against.

13 CHAIRMAN MAGUN: You should
14 take the microphone. You need a
15 microphone.

16 MR. GARGIULO: This
17 self-storage is approximately 50 by 400
18 which is --

19 CHAIRMAN MAGUN: Current
20 existing self-storage, I gather.

21 MR. GARGIULO: Yes. 200,000
22 square feet. That is what he has now.
23 And he has had it for eight years. Now he
24 wants to encroach on Holly Place with the
25 17 homes. These are the last 17 homes in

1 ZONING BOARD OF APPEALS - 5/24/2007
2 Hastings. The rest is Yonkers. There are
3 no more.

4 I've been here at that time and
5 I've been here with my father with the ice
6 truck and everything else. So I can tell
7 you stories about -- this land was Indian.
8 This was Indian country, Indian land from
9 Nepperhan Avenue all the way to Yonkers.
10 Did you know that?

11 CHAIRMAN MAGUN: I did.
12 But we are not really talking --

13 MR. GARGIULO: So I always
14 kept a low profile. I always kept a low
15 profile with my business. I have a
16 construction. I'm not doing it any more.
17 And I was invited to a house party
18 about -- it was beautiful people. First
19 time I met my neighbors, beautiful. And I
20 said, My God, all these years that I've
21 been here and never knew them. I used to
22 wave to them. I saw them when they went
23 down the dog path. And it is a shame.
24 It's a shame to see this. You know, I
25 come down the main street, and I see this

1 ZONING BOARD OF APPEALS - 5/24/2007
2 conglomerate building on my right side
3 with steel fixtures coming over almost on
4 the sidewalk. It is not Hastings any
5 more. What happened to Hastings?

6 Now, I have a yard. It is probably
7 half acre. And I'm contemplating on
8 putting homes, little brownstones. I'm
9 going to clear it up nice. I'm 80 years
10 old.

11 CHAIRMAN MAGUN: Maybe
12 we'll see you here sometime. Thank you
13 very much. Okay. Yes, we have the
14 pictures.

15 MR. GARGIULO: Can I have my
16 pictures back? You lost them on me the
17 last time.

18 CHAIRMAN MAGUN: Is there
19 anyone else who wishes to speak in the
20 audience either for or against this
21 application before I ask Mr. Davis or Mr.
22 Tarricone if they want to respond? Yes,
23 sir.

24 MR. MILICI: I am Michael
25 Milici. I live at 11 Flower Avenue in

1 ZONING BOARD OF APPEALS - 5/24/2007

2 Hastings.

3 CHAIRMAN MAGUN: 11 Flower
4 Avenue, is that here?

5 MR. MILICI: No. It is one
6 street south of Dobbs Ferry on the other
7 side of town. And I'm a friend of the
8 Tarricones. I'm coming to speak on their
9 behalf. And I know it is very difficult
10 to talk about tax subsidy in light of all
11 these people who are being directly
12 impacted by the growth of this business.
13 But I've lived here about three years now,
14 and my own taxes I think when I moved here
15 was about 12, 13,000. I'm paying 18 to
16 19,000 now.

17 And I see that among a lot of my
18 friends, people who have moved here. And
19 I find that there is a need to be a
20 subsidy against the residency with some
21 discrete businesses to take, pay some
22 of -- help pay some of these taxes. I
23 think the Tarricones have been here. They
24 have contributed to the neighborhood, and
25 I think they will continue to contribute.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 So by allowing them to develop what
3 would be an investment in them and I think
4 a little further development of business
5 in Hastings all together would help
6 maintain the residency base here for a
7 longer period of time.

8 CHAIRMAN MAGUN: Thank you.

9 Okay. No one else wants to speak. So
10 Mr. Tarricone, did you want to respond
11 then? I think we are going to probably
12 consider closing the public hearing and
13 letting the board decide what they want to
14 decide.

15 MR. TARRICONE: Two things.

16 First I would like to address, which is
17 something that I have not addressed ever
18 before, the original self-storage was
19 built as a result of continued neighbor
20 complaints from our prior business which
21 was there before any of the people came
22 in. They did not like the trucks. They
23 did not like the oil business that was
24 existing, you know, the long ongoing
25 business, but we were there. It is a

1 ZONING BOARD OF APPEALS - 5/24/2007

2 nonconforming use. It's been there
3 forever from the '40s.

4 And the neighbors were complaining.
5 They said it was dirty. We don't like it.
6 We want, you know, to stop it. So as a
7 result we said, What do you want? And
8 they asked for a quiet use. We suggested
9 self-storage. The original suggestion,
10 because if you look at this property goes
11 back here, we have an office building
12 here. We parked all our trucks back here.
13 It went on for years and years. I'm
14 talking 50 years. This is Saw Mill River
15 Road/9A. So they said, No, put a building
16 back there.

17 And originally we proposed the
18 building that you could do self-storage
19 and drive around the building to load your
20 self-storage, no hallways in the middle,
21 so the building was much smaller. You
22 accessed it from the outside. The
23 neighbors requested that we have no
24 vehicles in the backyard.

25 And as a result we built what we

1 ZONING BOARD OF APPEALS - 5/24/2007
2 have, which is now a, you know, 50,000
3 square foot building. It is 50 by 200, by
4 the way, not 50 by 400. And that was
5 something that we built in collaboration
6 with the village and the neighbors. I
7 didn't want to build it. I was forced to
8 build it. I didn't come up with this
9 great idea. Let's go do this, not like
10 I'm doing this time. I do want to expand
11 it.

12 That's one thing. The tax issue, I
13 submitted the tax chart to you. You guys
14 have it in your possession. We paid
15 \$167,000 worth of taxes, and I don't know
16 what Mr. Merchant is referring to. I know
17 that is what we pay in taxes.

18 And with regards to the gas
19 station, we had supplied the gas station.
20 I didn't own the property. I was not in
21 care, custody and control of the property,
22 where it is like Gulf puts a logo on a
23 piece of property. One woman said we
24 contaminated and ruined a piece of
25 property. That was not my property. It

1 ZONING BOARD OF APPEALS - 5/24/2007
2 was owned by Henry Pirro. I just wanted
3 to point that out to the village. Thank
4 you very much.

5 CHAIRMAN MAGUN: Thank you.
6 I think we have had a chance to hear
7 everyone who wants to speak tonight. And
8 so I would like the board to consider
9 maybe closing the public hearing on this
10 and allowing us to discuss this, if they
11 want to. Do you want to do that, board,
12 or not?

13 MS. FURMAN: Perhaps we want
14 to explain what it means to close the
15 public hearing. The audience will be
16 allowed to remain here but not
17 participate, is that -- am I correct in
18 explaining it? So the audience will be
19 allowed to stay and hear the discussion
20 going on up front at the board, correct?

21 CHAIRMAN MAGUN: Yes.
22 Sometimes questions come up and it is
23 helpful to have people here. Okay. Does
24 anyone want to make a motion with regard
25 to that?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MS. FURMAN: To close the
3 meeting?

4 CHAIRMAN MAGUN: Closing
5 the public hearing.

6 MR. DEITZ: Why don't you do
7 it?

8 CHAIRMAN MAGUN: Who?

9 MR. DEITZ: You as chair.

10 CHAIRMAN MAGUN: I make a
11 motion that we close.

12 MR. DEITZ: No, just do it.

13 CHAIRMAN MAGUN: I think we
14 have to do that.

15 MR. DEITZ: I'm sorry.

16 MS. FURMAN: I'll make a
17 motion to close the hearing to public
18 comment.

19 CHAIRMAN MAGUN: Is there a
20 second?

21 MR. SOROKOFF: Second.

22 CHAIRMAN MAGUN: In favor?

23 MS. FURMAN: Aye.

24 MR. DEITZ: Aye.

25 MR. PYCIOR: Aye.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 CHAIRMAN MAGUN: Aye.

3 MR. SOROKOFF: Aye.

4 CHAIRMAN MAGUN: We are
5 being asked to make a decision with regard
6 to recommending or recommending against
7 the application. And I think we would
8 like to hear how the board members feel,
9 what some of the points are that they
10 think are important and what our
11 recommendation should be to the board.

12 MS. FURMAN: I'd like to
13 speak.

14 CHAIRMAN MAGUN: Denise, go
15 ahead.

16 MS. FURMAN: I have driven
17 up and down 9A, and I apologize to the
18 residents of the small streets. I have
19 driven up and down your small streets
20 during different times of the day to get a
21 sense of the neighborhood. And no matter
22 which direction I come to, come from, to
23 look at this area, whether I'm going south
24 on 9A or north on 9A or coming down
25 Jackson or Ravensdale or Donald Drive and

1 ZONING BOARD OF APPEALS - 5/24/2007
2 looking at the neighborhood, it seems
3 clear to me that it is a neighborhood of
4 homes, that there are a few businesses on
5 the corridor right on Saw Mill but that
6 except for very few, as you start going
7 south, those are homes. Those are
8 residences on 9A.

9 And to the east side of the street
10 on the west side of the street, it is
11 predominantly a neighborhood of homes with
12 an exception of a few businesses. I agree
13 with many people who have said tonight and
14 other nights that the tax burden on people
15 of Hastings is a heavy burden, that we
16 probably don't have a strong enough
17 commercial base in Hastings to help us
18 with the taxes and that increased
19 commercialization would be lovely to
20 relieve some of the tax burden we face.
21 But I don't think that allowing this
22 change in zoning over here will help us
23 really with the tax burden in Hastings.

24 I think we need a much bigger
25 picture approach to the diversification of

1 ZONING BOARD OF APPEALS - 5/24/2007

2 property development in Hastings. And I
3 don't think that the first time we should
4 look to put commercial use in or expand
5 commercial use is in an area of homes that
6 are on our border with Yonkers, that -- in
7 a part of Hastings that I think people all
8 too often want to pretend is separate from
9 Hastings either because it is on the other
10 side of the Saw Mill or it is south of
11 Ravensdale.

12 I think it is a beautiful
13 neighborhood. I think it is a vibrant
14 neighborhood. I think it's something that
15 we have to protect. And I think that
16 clearly I will be voting against granting
17 this request for a change in zoning or
18 recommending against it.

19 I see no benefit to the community
20 as a whole in doing something like that.
21 And I apologize to all the people who live
22 in the area who are at all insulted by any
23 of the offers made to give small cash
24 grants. I think that your homes are
25 beautiful. I think they are very well

1 ZONING BOARD OF APPEALS - 5/24/2007
2 maintained. I hope that no one ever comes
3 and looks at my property quite so closely,
4 because I don't know that I could stand up
5 to that test.

6 So thank you for being here and for
7 speaking out. It is not always easy to
8 come and have to talk against a proposal.
9 It is not easy to stand up in front of a
10 microphone and know that all your
11 neighbors will see what you have to say.
12 But it is what we have to do to maintain
13 our community. I thank you for
14 participating. And I thank you for
15 maintaining your homes as beautifully as
16 they are.

17 CHAIRMAN MAGUN: All right.
18 Any questions from the -- Denise, thank
19 you for giving us your opinion also.
20 Anyone else want to comment on the
21 application?

22 MR. DEITZ: I found it a
23 closer case than Denise, because I think
24 the proposal did try to mitigate the
25 effect this change would have. But not to

1 ZONING BOARD OF APPEALS - 5/24/2007
2 drag things out, I am going to vote
3 against the proposal because of all the
4 homeowners there who have relied on the
5 zoning to be what it is, and I wouldn't
6 want to pull the rug out from under them.

7 At the same time the zoning is a
8 very arbitrary thing, and that's why the
9 proposal is so -- you know, is as
10 persuasive as it is, because there are
11 commercial areas nearby and there are
12 light industrial areas nearby and why
13 should we draw the line here and the line
14 wasn't always here. It used to be
15 somewhere else. And I understand that.

16 But in order to protect the
17 homeowners who relied on it and
18 recognizing the zoning is arbitrary, I
19 think I would vote to keep it as it is.

20 CHAIRMAN MAGUN: Okay.
21 Stan?

22 MR. PYCIOR: I too believe
23 it is a little closer than Denise sees it.
24 I share some of David's views. But as I
25 re-read the description of what an MR-0

1 ZONING BOARD OF APPEALS - 5/24/2007
2 district is supposed to be, I mean, it
3 stands for multiple family resident
4 office. And the type of uses that the
5 code addresses are retail sales of
6 antiques, a restaurant with total floor
7 area of 2,000 square feet, a health or
8 athletic club, a bed and breakfast. I'm
9 not even certain the code envisioned a
10 model that they are building which is how
11 I see this storage unit.

12 And so I think it would have
13 definitely a detrimental effect upon the
14 neighborhood. I walked the streets of the
15 neighborhood and almost every turn you
16 could see the existing self-storage
17 building. And so I too move to oppose.

18 CHAIRMAN MAGUN: Sheldon,
19 do you want to say anything?

20 MR. SOROKOFF: It is very
21 hard to vote against people who are here.
22 And I don't think I will.

23 CHAIRMAN MAGUN: People who
24 are here, meaning the audience or the
25 board?

1 ZONING BOARD OF APPEALS - 5/24/2007

2 MR. SOROKOFF: The people
3 whose homes are involved.

4 CHAIRMAN MAGUN: So you too
5 are not in favor of the application?

6 MR. SOROKOFF: Yes. Well, I
7 see certain positives in the application,
8 but overall I have to go with the people.

9 CHAIRMAN MAGUN: Okay.
10 Thank you.

11 MR. PYCIOR: If I may add, I
12 think the applicant did make some effort
13 to soften the image to recess the building
14 to add the trees, but the structure itself
15 is in my opinion too large for a
16 residential neighborhood. I wouldn't want
17 to see the residential neighborhood
18 changed into a residential office/large
19 building neighborhood.

20 CHAIRMAN MAGUN: Brian
21 Murphy is not here tonight, our other
22 board member. He did actually have some
23 comments which I'm not going to read this
24 whole thing. I think I might -- it
25 wouldn't be fair to him. But I'll read

1 ZONING BOARD OF APPEALS - 5/24/2007
2 the last paragraph where he sort of
3 summarizes his thoughts. This is another
4 opinion.

5 This application is a request for
6 spot rezoning of a very small portion of
7 the substantially residential area to
8 accommodate legitimate business and
9 personal interests of two village
10 families. I also wonder whether an
11 application for a use variance by
12 Mr. Tarricone would be a more appropriate
13 procedure if he could provide economic
14 evidence that his home had been
15 significantly devalued by being located on
16 9A.

17 Regardless, if the village board is
18 to give serious consideration to
19 Mr. Tarricone's application for rezoning
20 the four subject parcels along Route 9A,
21 then the question in my mind, Mr. Murphy,
22 is whether the significant condition
23 restrictions that Mr. Tarricone has been
24 suggesting could be made requirements of
25 such rezoning. So if so, he is saying,

1 ZONING BOARD OF APPEALS - 5/24/2007

2 Then I think the proposal at least
3 deserves consideration by the board of
4 trustees. If not, then I would recommend
5 that the board of trustees reject the
6 proposal. I hope this is helpful to the
7 zoning board.

8 So Brian is not here, so I just
9 wanted to convey that he also shared the
10 opinion there was some suggestions that
11 were appealing to mitigate the proposal,
12 and some that were not.

13 My own feeling here is along the
14 lines of everything that has been said by
15 the board, other board members. I think
16 this is spot rezoning. I think it is
17 really for the -- clearly for the interest
18 of one or two people in a neighborhood of
19 21 odd properties. Forgive me if that
20 number is not quite right. And if there
21 was a clear plan envisioned of the village
22 that had been discussed, promulgated with
23 a purpose in mind, where that would allow
24 such a rezoning to occur, then I think
25 that we could consider that in the context

1 ZONING BOARD OF APPEALS - 5/24/2007

2 of a broader vision. That is not the
3 case. It may be at some point.

4 I think some of the arguments that
5 Mr. Tarricone made are cogent. 9A is
6 essentially a commercial street. And you
7 know, most of the properties are
8 commercial. On the other hand, when you
9 drive by there, you see that there is an
10 entryway into this neighborhood, and there
11 is a residential house on one corner.
12 There is a residential house on the other
13 corner. And one can't help but be struck
14 by that, and I think if I lived in the
15 neighborhood I would feel betrayed really
16 that the village allowed a significant
17 change in zoning to accomplish a specific
18 business purpose for the profit of some
19 people rather than as part of some overall
20 vision.

21 So I think that some of the reasons
22 that Mr. Tarricone brought to us as to why
23 properties on 9A should be rezoned has
24 merit, and that's something that the board
25 of trustees might need to think about.

1 ZONING BOARD OF APPEALS - 5/24/2007

2 But the way this particular application, I
3 think, and the way it impacts on the
4 neighborhood and the change in the
5 entryway into the neighborhood is
6 substantial. And I too feel that it
7 really would change the character of this
8 neighborhood, and I'm very impressed with
9 the fact that almost everyone who lives in
10 the neighborhood is opposed to it, is
11 willing to sign a petition.

12 We sit on this board. I've been on
13 the board a long time. It's very hard to
14 get anyone to put a name on a piece of
15 paper or speak publicly. And the fact
16 that the overwhelming majority, if not all
17 of the property owners are willing to say
18 they oppose this speaks a lot to me, and I
19 think I sense to the other members of the
20 board.

21 So I too will recommend to the
22 board of trustees that this rezoning not
23 be approved. It sounds to me then like
24 all five of us here tonight are voting
25 against the request for a rezoning,

1 ZONING BOARD OF APPEALS - 5/24/2007
2 meaning that we recommend to the board of
3 trustees that the property not -- that
4 this area not be rezoned to an MR-0. So
5 if someone wants to make a motion to that
6 effect, I think we could --

7 MS. FURMAN: I'll make the
8 motion. I'd like to make a motion to
9 recommend against the request to rezone
10 part of Saw Mill River Road, Route 9A,
11 Holly Place into MR-0.

12 CHAIRMAN MAGUN: Is there a
13 second --

14 MR. PYCIOR: I'll second.

15 CHAIRMAN MAGUN: -- in favor
16 of this motion?

17 MR. DEITZ: Aye.

18 MS. FURMAN: Aye.

19 CHAIRMAN MAGUN: Aye.

20 MR. PYCIOR: Aye.

21 MR. SOROKOFF: Aye.

22 CHAIRMAN MAGUN: So we are
23 going to recommend unanimously -- Brian is
24 not here; I'm not going to speak to his
25 vote -- that the board of trustees not

1 ZONING BOARD OF APPEALS - 5/24/2007
2 rezone this area. And I thank you all for
3 your public participation. And it is a
4 useful exercise and we will see what the
5 future brings. Thank you.

6 I don't think there is any other
7 business other than approval of the
8 minutes. Our next meeting is June 28, not
9 the night of the high school graduation as
10 we usually had trouble with. So it is the
11 fourth Thursday which is June 28 that is
12 next. Is there any motion with regard to
13 the minutes to approve or are there
14 comments with regards to the minutes?
15 Well, I read the minutes. They were fine.

16 MR. PYCIOR: I move we
17 approve the minutes of the meeting of
18 April 26, 2007.

19 CHAIRMAN MAGUN: Is there a
20 second in favor?

21 MR. SOROKOFF: I second.

22 CHAIRMAN MAGUN: In favor?

23 MS. FURMAN: Aye.

24 MR. DEITZ: Aye.

25 CHAIRMAN MAGUN: Is there a

1 ZONING BOARD OF APPEALS - 5/24/2007

2 motion to adjourn?

3 MR. DEITZ: I make a motion
4 to adjourn.

5 CHAIRMAN MAGUN: In favor?

6 MS. FURMAN: Aye.

7 MR. DIETZ: Aye.

8 MR. SOROKOFF: Aye.

9 MR. PYCIOR: Aye.

10 CHAIRMAN MAGUN: Aye. The
11 zoning board is adjourned.

12 (Hearing concluded at 9:30 p.m.)

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1

2 STATE OF NEW YORK)

3) ss

4 COUNTY OF WESTCHESTER)

5

6

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

9

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

14

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

19

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 1st day of June, 2007.

22

23 NINA PURCELL,
24 NOTARY PUBLIC

25

