TRANSCRIPT OF
EASTCHESTER BOARD OF APPEALS
FEBRUARY 14, 2017
HELD AT: Eastchester Town Hall
40 Mill Road
Eastchester, New York 10707
7:00 p.m.

BEFORE:
ALAN PILLA, CHAIRMAN
MARK DE MARCO, MEMBER
JOSEPH MILLER, MEMBER
MICHAEL CAJATIE, MEMBER
PETER ROSSI, MEMBER

PRESENT:
MARGARET GILM, DIRECTOR OF PLANNING
MICHAEL VERNON, ASSISTANT PLANNER
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY
JAY KING, BUILDING INSPECTOR

Dina M. Morgan
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914-889-6503

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THE CHAIRMAN: Good evening, everyone.
Welcome to the February meeting for the Zoning Board of Appeals for the town of Eastchester.
We usually start our meeting with the Pledge of Allegiance. I don't see a flag. Our town attorney, what do you think, where do we
pledge?

MR. TUDISCO: We could use the --
THE CHAIRMAN: Okay, that's what we'll
do. Everyone rise, please.

(Whereupon the Pledge of Allegiance
was said.)

THE CHAIRMAN: Okay, before I go
through the roll, I just want to go over a few
of the ground rules, as I do each time we have
a meeting.

First, we follow Robert's rules of

elementary order, if anybody cares.
Secondly, the Zoning Board of Appeals
meets nine times a year. We usually meet the
second Tuesday of each month. We do not meet
in July, August, and December. Our calendar is
published. The reason why I'm telling you this
is because applications that are on for the

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1. first time, are not decided the first time
they're on. So for those who are here and the
viewing public if you are contemplating an
application, bear in mind that, again, your
application is considered when it's presented
for the first time and any application that's
first on for tonight the earliest a decision
would be made would be March.

Now, as far as the items that are on
for tonight, there are two on for resolution.
If you are not here, we're -- if the applicant
is not here, excuse me, we're going to proceed
to resolution. When I call the roll, just let
me know if the applicant is present and whether
they want to proceed. Again, for the
resolutions, if you're not here, we're
proceeding. If you want to adjourn, you may do
so.

So let's go with the roll call. The
first item is on for resolution, number 1,
16-68, 17 Deerfield Avenue. You're ready to
proceed?

APPLICANT: Yes.

THE CHAIRMAN: Okay. Number 2, 17-01,
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One other item on those items that are on for the first time, your -- everything, as a matter of public record, your submission and all the exhibits are part of the public record and they've been reviewed by the board. You're under no obligation to have to read them into the record. If you want to repeat the application and your answers to the five part application with will neither be helped or hurt by it.

Okay, so let's start with the resolutions. Number 1, 17 Deerfield Avenue I have motion to --

MR. CAHALIN: Excuse me, Mr. Chairman.

THE CHAIRMAN: Yes, sir.

MR. CAHALIN: Reading of the minutes.

THE CHAIRMAN: Would you like to make a motion?

MR. CAHALIN: I would like to make a motion.

THE CHAIRMAN: Good, because I forgot to, so please do.

MR. CAHALIN: I make a motion to

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accept the minutes of January of 2017.

THE CHAIRMAN: And I will second that motion. All in favor.

(All aye.)

THE CHAIRMAN: Thank you, Mr. Cahalin.

Okay -- it's Valentine's Day, I want to get everyone home.

MR. CAHALIN: I know that.

THE CHAIRMAN: Again, Item number 1, 17 Deerfield Avenue, I make a motion to adopt a resolution approving the application; is there a second to my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: By Mr. DeMarco. I'll take the roll. Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: And I vote yes. The application has been approved five/nothing.

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it's area or width or things like that. So that was, I think, an easier reading map than what we previously submitted.

THE CHAIRMAN: Thank you.

MR. SENOR: All right. One of the board members had talked about the close proximity of the houses to the property -- to the next property. What we did after that last meeting is, we had our architect determine what the size of the FAR maximum would be for these lots and then had him devise a feasible footprint of the house for that area. So what that allowed us to do was to create actual footprints with actual setbacks, and we increased our setbacks, I believe -- the minimum side where we had 8 before is now 10, and the other side is between 11 and 12 feet where 10 was required. So we added 3 or 4 feet between each house to try and, you know, get a realistic footprint.

I think those are -- oh, as far as the consultant engineer talked about the pitch of the roadway, which we corrected, you said we could, and the grading. So we satisfied all of

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his comments that were outstanding. So if you have any questions.

THE CHAIRMAN: Sure. At this time -- although, just to refresh my recollection, Ms. Uhle, the public part of this hearing is still open; correct?

MS. UHLE: Yes, it is.

THE CHAIRMAN: So at this time I think what I would like to do is invite the board to ask any questions that they may have of this supplemental information and then we continue the public hearing.

Mr. Cahalin, do you have anything?

MR. CAHALIN: No, but I want to thank the applicant for making the effort on both the diagram and the setbacks. We usually don't get that type of a response. So it is much appreciated and noted. Thank you.

THE CHAIRMAN: Thank you, Mr. Cahalin.

Mr. Miller?

MR. MILLER: No questions.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No questions.

THE CHAIRMAN: Mr. DeMarco?

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that the houses be limited to the gross floor area that's permitted in an R-5 district and that the setbacks, the side yard setbacks, be no less than 10 feet.

MR. SENOR: Yes, we can commit to that.

MS. UHLE: That's okay?

MR. SENOR: Yes.

MS. UHLE: All right. If you want to, but I just wanted to be clear.

THE CHAIRMAN: I appreciate the clarification. I just want to be clear with our town attorney, so is this the effect of amending the application now?

MR. TUDISCO: I think it is in that it's now on the record.

THE CHAIRMAN: Okay. Fair enough.

MS. UHLE: I don't want to disagree with the town attorney, but these are conditions that you would -- the variances are still --

THE CHAIRMAN: I'm sorry to interrupt you. What I would like to arrive at since we're going to be voting on the application is, DINA M. MORGAN, REPORTER

are we going to approve the application as submitted and this is just a wish, or is it going to be that we're going to submit the application as approved conditioned upon an amendment to the side yard setbacks?

MS. UHLE: No. The application before you is for a certain number of area variances.

THE CHAIRMAN: Right.

MS. UHLE: You would approve those area variances subject to two conditions. So there's no amendment. It's what you always do. So it would be you're approving the 17 area variances subject to the condition that the gross floor areas be limited to that permitted under the R-5 zoning and that the side yard setbacks be no less than 10 feet. So it's the same application but you're imposing a couple of conditions that they've agreed to.

THE CHAIRMAN: Board, everyone on board with that?

MR. DE MARCO: Yes.

THE CHAIRMAN: Thank you, Mrs. Uhle.

Okay, now comments or questions from the board following that; Mr. Cahalin?

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new business, number 4, 297 Main Street. The applicant can come up, state your name and address for the record, and proceed.

MR. COSTELLO: Good evening, ladies and gentlemen, Patrick Costello, 670 White Plains Road, Suite 110, Scarsdale, New York 10583.

MS. LEWKOWITZ: Susan Lewkowitz, 670 White Plains Road, Scarsdale, New York.

MR. COSTELLO: This is with respect to 297 Main Street here in Eastchester. It relates to a mixed use, one family and a commercial frontal store. What we're looking to do is convert the store into a one bedroom apartment. In order to do that, we need to expand the front approximately 136 square feet to the frontage here. It would have no adverse effect on the other properties in the surrounding neighborhood as is evidenced by 295 Main Street. This property comes out to the sidewalk, as well as the property next to the elementary school.

MS. UHLE: Excuse me, could you speak into the microphone? That's for our
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MR. CAHALIN: And also, you're the owners; correct?

MR. COSTELLO: Correct. Again, the purpose is to make this into -- convert it from the mixed use commercial into a residential. We want to bring the front out so that we have a more reasonable type of apartment. It would be a one bedroom apartment. We cannot utilize the north, the south in that there are bearing walls on the other side. The rear of it is a boiler room for both these -- for the house behind it, so that would not be feasible.

With respect to us, we purchased this property back in July of 2016 and the issue that we have is it's just economically not feasible for us to rent it out, it's been very difficult, and we're looking to convert it to a one bedroom. That's it in a nutshell.

The finishes would be consistent with the existing building, specifically with the roof. The roof would be similar to the existing roof of the house. The brick would be consistent with the brick of the house as well.

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295, it would come out right to --

MR. CAHALIN: I get where it's going to end up. I'm just asking, is that an 8 foot sidewalk; is it a foot sidewalk; is it a -- it's not going to be 10 feet I don't think? So I was just curious.

MR. COSTELLO: We would have to confirm the actual distance of the sidewalk.

It would be the same as the existing --

THE CHAIRMAN: Come up and identify yourself and explain it if you don't mind.

That would help. There's also a drawing here that if it's to scale would tell us that.

Please, your name and address and proceed.

MALE SPEAKER: (Name and address inaudible.) As far as 295, I will say the gentleman is right, it's not 10 feet but pretty close. It's about 8 feet.

THE CHAIRMAN: Let's take a look at what we have here.

MS. UHLE: That's not to scale.

MR. CAHALIN: It's not to scale.

THE CHAIRMAN: I just wanted to see if I could help, that's all. Being of no help,

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Mr. Cahalin, do you want to continue?

MR. CAHALIN: No, I'm done.

THE CHAIRMAN: Okay. Mr. Miller?

MR. MILLER: Yes. You're not going up -- you're not planning on going up, are you?

MR. COSTELLO: No. We're just going to come out forward.

MR. MILLER: Okay. There's a driveway there, is it going to affect the ability to get in and out of the driveway in any degree?

MR. COSTELLO: It's no different than would be for 295 Main Street, which is the building right here, so there would be no issue at all.

MR. CAHALIN: It's a shared driveway; correct?

MALE SPEAKER: No, it's not. Also, right now there's a little knee wall there, so it really wouldn't be any different.

MR. COSTELLO: What he is speaking of is right here.

(Indicating.)

THE CHAIRMAN: So if you don't mind me interrupting, Mr. Miller, just to clarify, when

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you're coming forward you're -- there is nothing that indicates you're going south, you're only coming forward?

MR. COSTELLO: Correct.

THE CHAIRMAN: So the driveway ingress and egress is not changing at all no matter how far forward you come?

MR. COSTELLO: No.

THE CHAIRMAN: Okay. Mr. Miller?

MR. MILLER: No, I'm good.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Yes, just a follow-up point on the driveway. If you're coming up to be at the same frontage as 295, I guess my question is somebody coming out of the driveway if they're making a turn, doesn't matter if they're making a right or left-hand turn, the site distance for cars coming south on Main Street, how does that factor in?

MR. COSTELLO: You're saying cars coming east out of the driveway?

MR. NURZIA: Yes.

MR. COSTELLO: It's only going to come out to the same distance as this building. We...

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don't see having a site issue.

MR. CAHALIN: I think that's why I asked what was left on the sidewalk because if there's stuff left, you could still see, you got site line.

MS. LEWKOWITZ: I just want to say it would be the same as the right. So there would be no difference.

THE CHAIRMAN: Mrs. Uhle, did you want to say something?

MS. UHLE: Yes. There is an actual survey that's provided, it's a reduced scale survey, but just looking at the dimensions, it looks like the sidewalk is at least 12 to 13 feet wide on the survey. So I think, like the applicant said, you know, a car coming onto Main Street would be within that area within the sidewalk. But if you look at the survey, and we could certainly confirm this prior to the next meeting if we just have a full scale survey, but based on other dimensions if you look the driveway is 11.2 feet wide and the sidewalk is clearly wider than that, so I would say 12 to 13 feet at least. If that...

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THE CHAIRMAN: Our final matter for the night is new business, 429 White Plains Road, Mickey Spillane's. Mr. Iannacito: Good evening. My name is John Iannacito. I'm an architect and I represent Mike Hynes and Stephen Carty this evening, the owners of Mickey Spillane's. An application for this project was approved by the Zoning Board back in 2015, and we are here tonight to request approval to legalize work which was partially completed but not included on that approved application.

We are requesting the legalization of a one-story addition behind the existing kitchen at the rear of the existing structure, which is here in hatched in the back of the property. This space behind the kitchen was previously used as outdoor storage and was partially covered by a roof. During the course of construction, the walls along the property line were built up and a new room added and it created an interior storage area. We're also requesting legalization of

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concrete block walls which were constructed along the property line on the side and above the kitchen to conceal the rooftop equipment.

I'll just go through the plan here. So here is the first floor plan. The dark line here at the back are the concrete walls that were built to enclose the storage area behind the kitchen, which was previously storage and will continue to be storage. Here is the second floor plan behind the roof garden that was approved in the previous application. The walls were extended up along the side and the rear to conceal the rooftop equipment. The partially completed work at the rear has created an increase to the existing non-conforming conditions and we are requesting the following area variances:

The first is for the first side yard setback where the existing and the proposed are 0 and the required is 10 feet, a deficiency of 10 feet or 100 percent. The second area variance is for the second side yard setback where the existing and proposed are 0 feet and the required is 10 feet. The third area variance is for the third area, where the proposed setback is 30 feet and the required is 30 feet or 100 percent. The fourth variance is for the principal building coverage, where the proposed building coverage is 4,575 and the allowable is 3,000 square feet, an increase of 1,575 square feet or 52.5 percent. The fifth variance is for the number of off-street parking spaces. The previously approved application plus the new storage area behind the kitchen requires a total of 19 parking spaces. A variance for 15 parking spaces was granted in 2006; therefore, a variance for 4 additional parking spaces is required for this application.

Also, there were some changes made to the front facade that didn't match the approved application, and that all needs to go back in front of the Architectural Review Board and the Planning Board for further review but does not require any additional variances.

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Thank you for your time. I'm happy to answer any questions you have.

THE CHAIRMAN: Thank you, Mr. Iannacito.

So again, the board will ask their questions at this moment. I'm going to start with Mr. DeMarco seeing that he was loaded with questions.

MR. DE MARCO: Please start somewhere else. I have so many questions, I don't want where to start.

THE CHAIRMAN: Is that true?

MR. DE MARCO: No, it's not true.

There's a second kitchen on the second floor; they couldn't leave --

MR. IANNACITO: No, there is only one kitchen. There is only one kitchen. There was a storage space behind the kitchen on the first floor, and actually it was an outdoor storage area that could be seen from the neighboring property, so having the walls is actually a better condition.

THE CHAIRMAN: It was an eyesore.

MR. IANNACITO: Yes, it was an eyesore.

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before. So those walls going up and having a roof covering that area, it just keeps it cleaner and it does hide the storage area from the Piper's Kilt parking lot and from the David Levy's property behind it.

MR. DE MARCO: Mr. Iannacito, did you know that Mike Hynes is also known as the Derrick Jeter of the bar business?

MR. IANNACITO: Derrick Jeter?

MR. DE MARCO: Yes. Did you know that? Just so you know.

MR. IANNACITO: And the walls that are on the upper floor, they help to conceal the rooftop equipment. On the previous application, we had railings and some screenage up there. They decided to do it in concrete block. It's partially completed today, so if you go there today you will see that it's up and down. The proposal is to bring them all up to same height, come across, and put a new stucco finish on the back. So it will look a little better in the back if approved.

THE CHAIRMAN: Mr. DeMarco, anything else?

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MR. DE MARCO: No, I'm good.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Yes, I have a question. Actually, maybe Mr. Tudisco could just chime in on this. You need a variance for the 19 spots now, you had one for 15, I'm just curious with the increase in that intensity are there any factors that we should be taking into account?

MR. TUDISCO: Well, actually, I'll defer to Margaret. The additional floor space because of the storage area is included in the floor space, so in a real sense my understanding is, and correct me if I'm wrong, they're not increasing the interior square footage to the extent that they would necessarily require any parking spaces, this is just outside storage space that is, based upon the zoning law, required to be included in the square footage; is that correct, Ms. Uhle?

MS. UHLE: Yes, that's correct. For zoning compliance purposes, you calculate the gross floor area from the interior and exterior walls regardless of what the use is. So if you have a large storage area, it may not

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there ever was. So asking for four spaces at this time is not really a stretch as compared to when the original 15 were required. It was a lot tougher back then, in my opinion, then what is there right now. The town has expanded the parking over there.

THE CHAIRMAN: Thank you, Mr. Cahalin. Mr. Nurzia?

MR. NURZIA: Yes, just one other follow-up question. Can you just qualify with the work for that exterior storage space, was that part of the renovation a couple of years ago or was it something that was done --

MR. IANNACITO: Well, it wasn't part of the application. We weren't doing anything in the back of the kitchen. We didn't do any work in the kitchen at all in that previous applicant. We just did above the existing bar space, the outdoor dining area, and expanded that room. So we weren't really doing anything back there. It just came up as they were doing construction. It was pretty messy back there, so it seemed like a good idea. We probably should not have done the work before we came to

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THE CHAIRMAN: Mr. DeMarco. All in favor.

(Tall aye.)

THE CHAIRMAN: Thank you for your time.

MR. IANNACTIO: Thank you.

THE CHAIRMAN: I make a motion to adjourn our meeting and we’ll see everyone in March; is there a second to my motion?

MR. NURZIA: Second.

THE CHAIRMAN: All in favor.

(All aye.)

MR. CAHALIN: Second.

THE CHAIRMAN: See you in March.

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CERTIFICATION

STATE OF NEW YORK  )
COUNTY OF WESTCHESTER) 5s.

I, DINA M. MORGAN, Court Reporter and Notary Public within and for the County of Westchester, State of New York, do hereby certify:

That the above transcript was taken from a videotape of the actual hearing. I was not present for such hearing. The videotape was taken and transcribed by me to the best of my ability.

And, I further certify that I am not related to any of the parties to this 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 6th day of March, 2016.

DINA M. MORGAN
Court Reporter