

TOWN CLERK

EASTCHESTER, N.Y.

STATE OF NEW YORK  
COUNTY OF WESTCHESTER  
TOWN OF EASTCHESTER

2019 APR 09 PM 3:23 . . . X

TRANSCRIPT OF  
EASTCHESTER ZONING BOARD OF APPEALS  
MARCH 12, 2019

HELD AT: Eastchester Town Hall  
40 Mill Road  
Eastchester, New York 10709  
7:00 p.m.

B E F O R E:

ALAN PILLA, CHAIRMAN  
JOSEPH MILLER, MEMBER  
MARK DE MARCO, MEMBER  
MICHAEL CAHALIN, MEMBER  
PETER NURZIA, MEMBER

P R E S E N T:

MARGARET UHLE, DIRECTOR OF PLANNING  
JAY KING, BUILDING INSPECTOR  
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY

TOWN OF EASTCHESTER  
Building and Planning Department

APR 09 2019 Dina M. Morgan  
25 Colonial Road  
Bronxville, New York 10708  
914-469-6353

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1 application would be April. Our calendar is  
2 printed about a year in advance, it's usually  
3 the second Tuesday of the month that we meet,  
4 but we do not meet in July and August. So if  
5 you are planning something that needs to get  
6 done before the summer, you want to get your  
7 application in before May.

8 So I'm going to call the roll. The  
9 first item is on for resolution, Item 18-36,  
10 Holy Mount Cemetery. We have a five member  
11 board, so that's proceeding to resolution.

12 On old business, item number 2, this  
13 is 18-45, 20 Nelson Road; is the applicant  
14 ready to proceed?

15 MR. SALERNO: By counsel, ready.

16 THE CHAIRMAN: Thank you. New  
17 business, item number 3, 18-52, 74 Hutchison  
18 Boulevard; ready to proceed?

19 APPLICANT: Yes.

20 THE CHAIRMAN: Thank you. Number 4,  
21 18-53, 141 Anderson Avenue; ready to proceed?

22 APPLICANT: Ready to proceed.

23 THE CHAIRMAN: Wonderful. The last  
24 item, number 5, 18-55, 195 Beech Street.

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THE CHAIRMAN: Good evening and

welcome to the Town of Eastchester Zoning Board  
of Appeals meeting for March, March 12th, 2019.

We begin our meeting with the Pledge of  
Allegiance. Please stand.

(Whereupon the Pledge of Allegiance  
was said.)

THE CHAIRMAN: Before I call the roll,  
I'll go down the ground rules, which I always  
do before each meeting.

Firstly, we abide by Robert's Rules of  
Parliamentary order, if you care about such  
things.

Secondly, when I call the roll for new  
applications, let us know you're here and  
you're ready to proceed. We have three of  
those, we have one item of old business which  
is open, and we also have one item that's on  
for resolution.

Also, for items that are on first  
time, as printed on your application as part of  
the terms and conditions, those items are not  
decided the first time on. I mention that  
because the earliest decision on a March

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APPLICANT: Ready to proceed.

THE CHAIRMAN: Thank you.

MR. MILLER: Mr. Chairman?

THE CHAIRMAN: Yes, sir.

MR. MILLER: With respect to  
application 18-55, 195 Beech Street, in  
accordance with my ethical requirement, I would  
like to advise the board that I am friends with  
Andrew and Hillary Clarke; however, as you had  
this come up many times, I certainly feel that  
I can rule on this impartially.

THE CHAIRMAN: Okay. So for the  
record, there's no need for you to recuse  
yourself, but thank you for putting it on the  
record.

Okay. Last item is item number 6,  
18-44, 51 Joyce Road, that's been adjourned to  
the April meeting.

So before we get into the resolution,  
I'm going to make a motion to approve the  
minutes from the February meeting; is there --  
was that February? January. Excuse me.  
February was adjourned because of weather. To  
the January meeting. Is there a second to my

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2 motion?  
3 MR. CAHALIN: Second.  
4 THE CHAIRMAN: Mr. Cahalin. All in  
5 favor.  
6 (All aye.)  
7 THE CHAIRMAN: Okay. Item number 1,  
8 this is Application 18-36, Holy Mount Cemetery.  
9 I make a motion to adopt a negative declaration  
10 for Application 18-36, Holy Mount Cemetery; is  
11 there a second to my motion?  
12 MR. MILLER: Second.  
13 THE CHAIRMAN: Mr. Miller. All in  
14 favor.  
15 (All aye.)  
16 THE CHAIRMAN: I also make a motion to  
17 adopt a resolution approving this application,  
18 which is 18-36, Holy Mount Cemetery; is there a  
19 second to my motion?  
20 MR. CAHALIN: I'll second.  
21 THE CHAIRMAN: Mr. Cahalin. To the  
22 vote. Mr. Cahalin.  
23 MR. CAHALIN: Yes.  
24 THE CHAIRMAN: Mr. Miller.  
25 MR. MILLER: Yes.  
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2 THE CHAIRMAN: Mr. Nurzia.  
3 MR. NURZIA: Yes.  
4 THE CHAIRMAN: Mr. DeMarco.  
5 MR. DE MARCO: No.  
6 THE CHAIRMAN: I vote yes. The  
7 application has been approved 4 to 1.  
8 Old business, item number 2, 18-45, 20  
9 Nelson Road.  
10 While the applicant is setting up,  
11 I'll just remind that the public hearing on  
12 this application is still open.  
13 MR. MAIORANO: Good evening, chair,  
14 board members, Adamo Maiorano from Community  
15 Designs and Engineering. In regards to our  
16 last meeting that we had in January for the two  
17 lot subdivision at 20 Nelson Road, the changes  
18 that we have made ultimately was to the  
19 proposed driveway at the existing residence of  
20 Lot A. We extended the driveway further into  
21 the rear yard along the side property. This  
22 will allow for parking further towards the rear  
23 and side yard, as well as create additional  
24 parking on the property. I know one of the  
25 major concerns of the neighboring residents  
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2 was, in fact, parking and street parking. I  
3 know it's not our direct control to govern  
4 street parking, but what we can do is design  
5 something that will have the least amount of  
6 impact on that condition. So what I did do is  
7 take a second look into what our proposed  
8 action will have on the street parking. If you  
9 want to look at the proposed preliminary  
10 subdivision, there are some additional  
11 dimensions that are within the hundred foot  
12 frontage. There's four parking spaces that can  
13 fit between existing curb cuts to curb cuts as  
14 it is today. Within our proposed design, we  
15 will actually be keeping the four parking  
16 spaces in the street. The way the new curb  
17 cuts are positioned, you could still allow for  
18 two cars to park in between from neighboring  
19 curb cut to curb cut.  
20 Secondly, I think it was landscaping  
21 and the removal of trees was another concern.  
22 Within our proposed action, the only actual  
23 tree that will be removed is the tree that's  
24 adjacent to the bay window of the existing  
25 residence. It's currently affecting the  
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2 driveway as it is today. That tree will be  
3 removed. Other than that, the tree along the  
4 front property will remain, and that's actually  
5 on the town property.  
6 Other than that, that's really the  
7 changes that we looked into. Any questions?  
8 THE CHAIRMAN: Okay. Thank you, Mr.  
9 Maiorano. Before I throw it over to the board  
10 for questions, would you mind highlighting how  
11 much driveway you've added going toward the  
12 rear or the southeasterly side of the property  
13 from your original application because what  
14 you've really done is supplement your  
15 application to include more rear parking; so  
16 could you show us?  
17 MR. MAIORANO: Sure. Right now the  
18 driveway ended at about the one story here, and  
19 we extended it for basically an additional two  
20 cars to fit along the side rear of the  
21 property.  
22 THE CHAIRMAN: Thank you. So at this  
23 point this matter is still open to the public  
24 on a public hearing, but I would like to see if  
25 the board has any questions, and then we can  
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1 make our comments later. Mr. Cahalin, do you  
2 have any questions?

3 MR. CAHALIN: Yes, I do. This  
4 application, on those snowy days I picked it up  
5 and I started looking at it and I got into  
6 these plans, and I guess just as a question, if  
7 you were to demolish the existing home, could  
8 you create two homes of the same square footage  
9 that don't need the variances that you're  
10 requesting?

11 MR. MAIORANO: Yes.

12 MR. CAHALIN: So one of the biggest  
13 parts of the test, this is self-created to a  
14 degree, in my mind, because if you knock down  
15 that existing home, you could do this by right;  
16 correct?

17 MR. MAIORANO: Yes, just within  
18 economically feasible.

19 MR. CAHALIN: I appreciate what you  
20 did with the driveway, but it looks like it's a  
21 kind of angle kind of thing. Is a car really  
22 going to fit there?

23 MR. MAIORANO: Yes it can fit there.

24 MR. CAHALIN: It can. Will it? It's

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1 not going to be a Tahoe truck, though, is it?

2 MR. MAIORANO: Yes, exactly.

3 MR. CAHALIN: It's going to be a  
4 little sports car.

5 MR. MAIORANO: A normal size sedan,  
6 midsize car.

7 MR. CAHALIN: Mr. Chairman, I just  
8 want to get that on record because, you know,  
9 this is -- looking at the minutes of last month  
10 as well, to follow-up on my statement, this is  
11 a hundred percent variance. A hundred percent.  
12 At what point do we stop with these hundred  
13 percent variances is my question. So I just  
14 want to get that on the record, that these  
15 could be done by right by knocking down this  
16 house. I understand what this guy is doing, I  
17 have just been troubled by it. So that's my  
18 comments.

19 THE CHAIRMAN: Thank you, Mr. Cahalin.  
20 Mr. Miller.

21 MR. MILLER: I have no questions.

22 THE CHAIRMAN: Mr. Nurzia?

23 MR. NURZIA: Can you just clarify on  
24 the parking on the street, did you say that it

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1 will have no effect; in other words, the way  
2 you configured everything?

3 MR. MAIORANO: Yes, exactly. So right  
4 now the existing curb cut is from here to the  
5 adjacent neighboring driveway. You could  
6 potentially only fit two cars because if a car  
7 was in between, there's only 43 feet, proposed  
8 will have about 34 feet, so you could still fit  
9 two cars there, and then right here from the  
10 adjacent neighboring property to the existing  
11 curb cut it's another 40 feet where you could  
12 fit two cars, and in our proposed design we  
13 could still fit two cars in between our  
14 proposed curb cut and proposed curb cut on lot  
15 B.

16 MR. NURZIA: So from that perspective,  
17 you're really not losing anything?

18 MR. MAIORANO: Yes. And then we still  
19 do have some additional room within the  
20 planning process if we have tweak some stuff to  
21 decrease things here and there.

22 MR. NURZIA: Okay. No further  
23 questions.

24 THE CHAIRMAN: Mr. DeMarco?

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1 MR. DE MARCO: No questions.

2 THE CHAIRMAN: I don't have anything  
3 at this juncture. The public hearing is open,  
4 so if anyone else from the public would like to  
5 be heard on this application, please come  
6 forward, state your name and address for the  
7 record and proceed.

8 MS. BOUTUREIRA: My name is Anna  
9 Boutureira. I'm on 19 Nelson Road. I'm right  
10 across the street from the homes in question.

11 I look at a very pretty, big oak tree.  
12 I look at limited parking space, which I know  
13 is none of your concern. As the attorney told  
14 me in January, everyone has the right to sell  
15 their property. Absolutely agree. But in  
16 order to sell the property the way the  
17 applicant wants it, they have to ask you for a  
18 variance. In January it was a hundred percent  
19 variance. We could call whatever variance we  
20 want right now. My ask is simple. I really  
21 would like to say that we need to stop the  
22 allowances of extreme variances in this town.  
23 That's my ask.

24 It is a quaint town, and it's really

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1 becoming -- what's the point of having town  
2 specifications if you're going to allow massive  
3 amounts of variances. It's no different than  
4 if we acquaint to a speeding ticket, if the  
5 limit is 55 miles an hour and we're allowed to  
6 go 60, 62, okay, maybe get away with it, but  
7 80, 90, 100, that's the same thing as asking  
8 for a massive variance.

9 That's my ask. It's very simple. I  
10 think that the town should stop the allowances  
11 of extreme variance because pretty much what's  
12 the point of having specifications. Thank you.

13 THE CHAIRMAN: Thank you. Would  
14 anyone else like to be heard?

15 (No comments.)

16 THE CHAIRMAN: I'm going to leave it  
17 open for a moment. Would counsel like to be  
18 heard? Please.

19 MR. SALERNO: With respect to the  
20 hundred percent variance -- by the way, Rocco  
21 Salerno, attorney for the applicant.

22 With respect to the hundred percent  
23 variance, as stated in the memo that I  
24 submitted to the board, it's a hundred percent

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1 if we view it in a vacuum, but you have to  
2 remember, we're not building anything on that  
3 part of the property. We're talking about  
4 instead of a 3 foot buffer -- that's what's  
5 required, a 3 foot buffer -- there will be  
6 macadam or cement to the property line. If you  
7 go back halfway to the rear of the property,  
8 there's already hedges there separating the two  
9 properties. Again, when you speak about a  
10 hundred percent variance, we're talking about  
11 instead of grass or gravel or maybe some kind  
12 of shrubbery, there will be adnatum or cement.  
13 We are not proposing to build anything along  
14 that property line. Thank you.

15 THE CHAIRMAN: Thank you, Mr. Salerno.

16 MR. TUDISCO: Mr. Chairman --

17 THE CHAIRMAN: Yes, counselor.

18 MR. TUDISCO: I just wanted to say  
19 something -- especially for those who might be  
20 watching at home -- with respect to one of the  
21 comments that was made in terms of I guess  
22 equating a variance application with a legal  
23 prohibition, for instance. I want to clarify  
24 for the record that when it comes to zoning

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1 law, if someone is proposing to build  
2 something, construct something that is at  
3 variance with the law, that is not exactly the  
4 same thing as something that is prohibited or  
5 illegal. Those are two very different  
6 concepts.

7 The Zoning Board of Appeals is a  
8 process by which someone has the right and  
9 there is a process legally for an applicant to  
10 address the board and to ask for something to  
11 be varied from the actual law. The Zoning  
12 Board of Appeals has an absolute obligation to  
13 hear those applications. That is something  
14 that is determined on a case by case basis,  
15 which is actually different from someone  
16 violating a hard and fast law, like a criminal  
17 statute or a traffic statute or something like  
18 that.

19 That's all I just wanted to clarify  
20 for those who may be watching at all.

21 THE CHAIRMAN: Thank you, counselor.  
22 If I could just add to that, that variances,  
23 which come in a couple of garden variety, like  
24 area or use, have very specific legal

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1 guidelines that an applicant much meet. So  
2 it's not something that comes before us and  
3 they're just pulling out of the air. Thank  
4 you.

5 With the public hearing still being  
6 open, would anyone else like to be heard from  
7 the public on this matter?

8 (No comments.)

9 THE CHAIRMAN: Seeing no one else, I  
10 make a motion to close the public hearing on  
11 this; is there a second?

12 MR. DE MARCO: Second.

13 THE CHAIRMAN: Mr. DeMarco. All in  
14 favor.

15 (All aye.)

16 THE CHAIRMAN: Okay. Back to the  
17 board for questions or comments. We'll start  
18 on the right this time. Mr. DeMarco?

19 MR. DE MARCO: No questions.

20 THE CHAIRMAN: Mr. Nurzia?

21 MR. NURZIA: No comments, no  
22 questions.

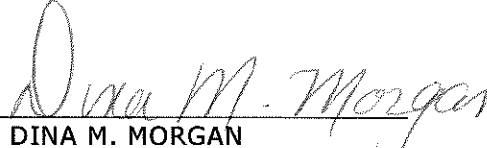
23 THE CHAIRMAN: Mr. Miller?

24 MR. MILLER: None.

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 2 person in the audience and seeing that you're  
 3 probably --  
 4 (Female speaker from audience.)  
 5 THE CHAIRMAN: We have no one that's  
 6 interested in speaking from the public, so I  
 7 have a motion to close this matter to a public  
 8 hearing; is there a second?  
 9 MR. MILLER: Second.  
 10 THE CHAIRMAN: Mr. Miller. All in  
 11 favor.  
 12 (All aye.)  
 13 THE CHAIRMAN: Okay. Let's go through  
 14 the board because I have to. Mr. DeMarco?  
 15 MR. DE MARCO: What kind of dog do you  
 16 have? No further questions.  
 17 THE CHAIRMAN: Mr. Nurzia?  
 18 MR. NURZIA: No questions.  
 19 THE CHAIRMAN: Mr. Miller?  
 20 MR. MILLER: No questions.  
 21 THE CHAIRMAN: Mr. Cahalin?  
 22 MR. CAHALIN: None.  
 23 THE CHAIRMAN: The only comment I have  
 24 is that you've made a very succinct application  
 25 addressing the five part test. Thankfully none  
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 2 of the architects are here to see what you did  
 3 because they would be jealous and angry with  
 4 you showing them up.  
 5 I make a motion to adjourn this matter  
 6 for resolution at the next meeting; is there a  
 7 second to my application?  
 8 MR. MILLER: Second.  
 9 THE CHAIRMAN: Second by Mr. Miller.  
 10 All in favor.  
 11 (All aye.)  
 12 THE CHAIRMAN: Thank you.  
 13 MR. CLARKE: Thank you, board.  
 14 THE CHAIRMAN: I have one more motion  
 15 to make, and that's to adjourn the meeting  
 16 until our meeting in April; is there a second  
 17 to my motion?  
 18 MR. DE MARCO: Second.  
 19 THE CHAIRMAN: Mr. DeMarco. All in  
 20 favor.  
 21 (All aye.)  
 22  
 23 (MEETING ADJOURNED.)  
 24  
 25  
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 2 CERTIFICATION  
 3  
 4 STATE OF NEW YORK )  
 ) Ss.  
 5 COUNTY OF WESTCHESTER)  
 6  
 7 I, DINA M. MORGAN, Court Reporter and  
 8 Notary Public within and for the County of  
 9 Westchester, State of New York, do hereby  
 10 certify:  
 11 That the above transcript was taken from  
 12 a videotape of the actual hearing. I was not  
 13 present for such hearing. The videotape was  
 14 taken and transcribed by me to the best of my  
 15 ability.  
 16 And, I further certify that I am not  
 17 related to any of the parties to this action by  
 18 blood or marriage, and that I am in no way  
 19 interested in the outcome of this matter.  
 20 IN WITNESS WHEREOF, I have hereunto set  
 21 my hand this 9th day of April, 2019.  
 22  
 23   
 24 DINA M. MORGAN  
 Court Reporter  
 25  
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