EASTCHESTER ZBA - 4/13/17

1. The Chairman: Good evening. Welcome to the town of Eastchester Zoning Board of Appeals meeting for Thursday, April 13th, 2017.

2. We start our meetings with the Pledge of Allegiance. Please rise.
   (Whereupon the Pledge of Allegiance was said.)

3. The Chairman: We have to coordinate a little better next time the Pledge of Allegiance.

4. Okay. I'm going to call the roll in a moment, but before we do that, I want to quickly go over the ground rules, which is what I do every meeting.

5. First item to note is that we use in case you care -- Robert's rules of parliamentary order.

6. Secondly, every new matter that is on this evening, which I believe are four, are subject to the terms and conditions on your application, which currently states that when a matter is on for the first time, it is not decided. So anything on tonight, the earliest it will be decided will be May. Also, our

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minutes of the February 14th, 2017 meeting; is there a second to my motion?

MR. CAHALIN: I'll second it.
THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)
THE CHAIRMAN: Now 16-13, Rogliano subdivision. I make a motion to approve the application, which is 16-13, Rogliano subdivision, 22 and 24 Water Street and 42 Stewart Place, subject to the following condition:

All of the lots and homes in the proposed subdivision must comply with all lot and bulk requirements of the R-5, one family residence district, with the exception that all side yard setbacks must be a minimum of 10 feet as opposed to a minimum first side yard setback of 8 feet and a second side yard setback of 9 feet, as otherwise required in the R-5 district.

Is there a second to my motion?

MR. CAHALIN: I'll second that.
THE CHAIRMAN: Mr. Cahalin. To the

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Declar[ation] for this application; is there a second?

MR. CAHALIN: I'll second.
THE CHAIRMAN: Mr. Cahalin. Vote on the Negative Declaration.

MR. CAHALIN: Aye.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.

THE CHAIRMAN: I vote yes.

Four-nothing.

I also make a motion to approve the application subject to the following condition:

The 674 square foot addition proposed at the rear of the building may be used for storage purposes only.

Is there a second to that motion?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. Now to the vote. Mr. Cahalin.

MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.

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vote. Mr. Cahalin.

MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.

THE CHAIRMAN: I vote yes. The application has been approved four-nothing.

Item number 2, I make a motion -- this is 17-05, 297 Main Street. I make a motion to approve the application; is there a second to my motion?

MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. Now the vote. Mr. Cahalin.

MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.

THE CHAIRMAN: I vote yes. That application has been approved four-nothing.

Number 3, 17-02 Mickey Spillane's. I first make a motion to adopt a Negative

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THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.

THE CHAIRMAN: I vote yes. The application has been approved four-nothing subject to the conditions I've just enumerated.

Okay, new business. This is 454 California Road.

While you're setting up, this is an application for an area variance to construct a one story rear addition to an existing single family home. Mr. Tiso, while you're setting up, I'll just let the viewing public know that your application and all of the documents submitted therewith are part of a public record. You're free to read your application but you don't need to. It won't either help or hurt your application. It's entirely up to you and your presentation. Mr. Tiso.

MR. TISO: Good evening, Mr. Chairman, members of the Board. I just want to quickly go over the main features of our application.

It's a bump out of an existing family room --

MS. UHLE: Do you have a drawing you

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could put up on the easel?

MR. TISO: No, I do not. I'll take yours?

MS. UHLE: Sure. Here you go. Here's a clip.

MR. TISO: Thank you, Ms. Uhle. So the main features of our application, it's a bump out of an existing family room. The entire project is 140 square feet. The proposed addition would result in:

One, a rear yard setback of 20.3 feet, 25 is required, which is 4.7 foot deficiency or 18.8 percent.

The second is a side yard setback of 11.1 feet where 12 feet is required, it's a 9 inch deficiency or 7.5 percent.

The deck that is being constructed with the project is 100 percent as of right. It's not part of this application.

Now, the board has received my memorandum, and it shows how we meet the five prong test for the variance. As much as I know Chairman Pilla would like me to read the whole memorandum, I'm going to dispense with that.

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tonight, but there are two areas that I would like to address.

One is addressing the concerns of my clients' neighbor in the rear and below. His concerns apparently were through telephone calls with the town that he was concerned about the water runoff, integrity of the retaining wall between the properties, and the safety when the construction is being done. Does the board have a copy of that letter? I've brought extras.

THE CHAIRMAN: We do.

MR. TISO: You do?

THE CHAIRMAN: Yes.

MR. TISO: So in response we got an engineer's letter. It's a February 16th letter from David A. Tetro, the architect, to address those exact concerns. The letter basically says that if a variance is granted, a dry well would be installed to more than adequately accommodate the larger roof surface area, that the demolition of the existing rear structure and excavation for storm water basins cannot be done by hand, he would use lighter equipment.

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<td>tree, and now not only do they have more raking as a result of that tree being installed, but that they fear that the tree will fall directly on the house if there's a weather problem. So as I already stated in my memo and again tonight, that deck is 100 percent of the right. So unfortunately for the neighbors below, my clients can take out a building permit tomorrow, install a door in the existing family room, put on a deck 100 percent of the right, and unfortunately for the neighbor there would really be nothing they could do about it. In fact, my clients could go another foot because as we all know, the setback is different for a deck than it is for a structure that's part of a house. It's 25 feet for a house but it's only 19 for a deck. So one other item, just to drive my point home, I took some further pictures -- if I may? THE CHAIRMAN: Sure. MR. TISO: So I went over and I took pictures. The first set of pictures are pictures from the existing family room down to DINA M. MORGAN, REPORTER</td>
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<td>where their houses are situated. It should not, therefore, in my opinion, be a basis to compel my clients to create a buffer zone, as is suggested by a 10 or 12 foot planting, which would also be a significant expense to my clients. Interestingly, the neighbor is not even complaining about the family, but rather they're concerned about potential lighting on the deck that is being built 100 percent of the right. So I don't understand the argument. So with that, I leave it in your hands. The test is objective. As I stated in my memo, there is no new precedent being set by the board. In 2006, the Zoning Board here approved an application for my clients' next door neighbor to the north. We feel that we resoundingly meet the test for an area variance from my memo. We've adequately and thoughtfully answered the questions and concerns of the neighbors below. My clients' new family room and deck will not only fit right into the character of the neighborhood, but it will be an aesthetic improvement, in our opinion. So, again, in conclusion, I think it's a win-win not only my clients but a win-win for the surrounding neighbors as well. Thank you for your time. THE CHAIRMAN: Thank you, Mr. Tiso, for your presentation. Just for those who are here the first time, procedurally what generally happens is that we give the board an opportunity to ask questions of the applicant, then we'll open the matter to a public hearing, the public will have an opportunity to comment, and afterward if there is anything that the applicant needs to address, he will, the board will then have commentary, and then we'll take it from there. So at this point, I'm going to have the board ask any questions of the applicant that they see fit. Mr. Cahalin? MS. UHLE: I'm sorry, can I just interrupt? THE CHAIRMAN: Sure. MS. UHLE: Sorry about this. I know Mr. Tiso referenced the phone conversation that DINA M. MORGAN, REPORTER</td>
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1 I had with the neighbor at 29 Lisenard Avenue,
2 and I thought he was aware but he may not have
3 been aware that Mr. Giannelli also submitted
4 something in writing to the board, and I
5 apologize if you didn't get a copy of this.
6
7 MR. TISO: No, I did not.
8 MS. UHLE: It elaborates the
9 conversation.
10 MR. TISO: Is it different than the
11 e-mail?
12 MS. UHLE: It's many of the same
13 points, but --
14 MR. TISO: Thank you. I appreciate
15 that.
16
17 THE CHAIRMAN: Do you want to take an
18 opportunity to look at that or do you care?
19 MR. TISO: I'll field some questions.
20 THE CHAIRMAN: Mr. Cahalin?
21 MR. CAHALIN: Just a question. Even
22 though you have the right to the deck, are you
23 going to light the deck, and if so, what kind
24 of light are you going to have on the deck?
25 MR. TISO: I'm not even sure if
26 there's any plans in the making for lighting on
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18
1 the deck.
2
3 MR. CAHALIN: Is that going to be code
4 compliant I suppose?
5 MR. TISO: I imagine it would have to
6 be in order to get the approval.
7 MR. CAHALIN: Usually those things are
8 on the plans and they're not there.
9 MR. TISO: They're not on there. I
10 think that's the next step. If it gets
11 approved and there's going to be plans
12 submitted, Mr. King will have to approve that.
13 THE CHAIRMAN: Anything else, Mr.
14 Cahalin?
15 MR. CAHALIN: No.
16 THE CHAIRMAN: Mr. Miller?
17 MR. MILLER: No questions.
18 THE CHAIRMAN: Mr. Nurzia?
19 MR. NURZIA: No questions.
20 THE CHAIRMAN: I don't have anything
21 at this time. I do have a motion to open this
22 matter to a public hearing; is there a second
23 to my motion?
24 MR. NURZIA: Second.
25 THE CHAIRMAN: Mr. Nurzia. All in
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20
1 came to this board meeting and basically it was
2 about drainage and that dry wells be installed.
3 After the extension was up, at that point we
4 had sustained flooding from it, okay. There's
5 police reports of it, the excess of water and
6 stuff, and it was remediated by them and also
7 by myself. So it's very important that the
8 drainage be resolved here.
9 One of the neighbors, who no longer
10 has the property south of here, 25 Lisenard,
11 the Mendley household, the home next to them
12 did basically a similar type of extension, and
13 that was early 2000. It was a resident that
14 had been there for 45 years, never sustained
15 any water damage, water problems in their
16 house. Soon after that, they had ground water
17 coming in after every rain. They were required
18 to put in French wells in their basement, about
19 $12,000, sump pumps to get this going. You
20 drive past there now, it's like living in a
21 grand canal, there is constantly water flowing
22 out from the ground, which never existed
23 before.
24 So additional things; the dry well
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placement, I would like to see those on the future maps or plans that are designed, where they’re located. Hopefully they will be more positioned between the homes versus directly in back of it where the hydrostatic pressure will basically come into my area. So I would like to see that moved to those areas.

There was a series of photos that I submitted that went about on the concern for the privacy or the loss of it. This is -- I'm not implying anything or suggesting anything, but what I will say is that if you look at some of the photos, especially the photos north of the property, and I think one of them was submitted by the Ottomanellis, I also have photos of it, the people that had a deck what you had there were mature plantings in the vicinity of about 20 feet. I could tell you when I bought that home, we had plantings, and I submitted photos from even last summer, that basically demonstrated there were easily 8 to 12 foot plantings directly behind my house. The point of it is, is that once these extensions go on, the plantings disappear.

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feet, probably a 3 to 4 step until you get to the bottom ground there. So you're all smart, you could do the math, it's about 14 feet elevation is about where the floor of the deck is, which is quite high. The two factors there that are a concern obviously is, again, privacy but also the factor of safety. I don't want to turn to a neighbor and say, you can't have an umbrella on your property because every time the wind comes by I have to worry about a projectile coming at my house, or worse yet sitting in my backyard and being concerned about that. That would be an unfair thing. I look at the screening and shrubbery as some form of protection for these kinds of things.

Also, in terms of that, again, at the eye level of being on the deck, you are looking literally into the second floor bedrooms of my house, similarly to my neighbor to my north has experience with this. It's not just the extension itself, you're now talking about a deck and extension. It really impacts the privacy of the home.
The photos that you see there were

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because there's really no room in your backyard anymore, okay. So what happens is, is the only for you to have some space in your yard, you take those down and what happens is you have a fence on a wall. If you look at the property north of my house and the property south of my house, that's exactly what happened. I'm not implying or suggesting that this is going to occur here, but this is the reason for my demand that we have some form of screening that remains there.

So in relation to the privacy factor of this, I would like to see that 10 to 12 foot plantings be part of the permanent resolution, that's stated in there, and that should any of those plants die at any point, that they be replaced, and that they also be maintained as part of that.

As far as the deck addition, I've submitted photos that basically gives you the elevation on this. If you haven't been to the site, the elevation of this is basically putting the property probably I would say you have -- the lower deck of the house being 8

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of lighting that's utilized. I'm not looking to deny someone lighting, but the type of proper lighting for this environment needs to be addressed.

As is relates to the retaining wall, I would also like it to be stated I don't think in Mr. Tetro's letter that it was very clearly stated in terms of addressing anything. Was any form of assessment done to the wall in terms of being able to support any type of hydrostatic pressure, equipment back there? But also, at the conclusion of this project, I would like the wall to be re-pointed to remediate any ground shifting on that.

I know Chris talked about what 4 feet is, and I couldn't agree with you more, 4 feet doesn't really look like much. What I would really like to see is, what is it as a percentage? Somebody do the math on that for me. I know what 4 feet looks like. When you take a piece of property that has an 8 foot ceiling, okay, and you go 4 feet, that's 140 square feet, it's not a big deal. Now turn around and put A frame on the back of that,

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there, we have to assume a deck that large is
going to hold a number of people. I don’t want
to have to put blackout shades on my bedrooms
and bathrooms because there’s people staring at
me, you know, 12:00. It’s going to be quite
disruptive. So that is a concern for us.

We really would like the board to
consider the fact that the pictures that were
used to show the deck were taken from inside
the property of that deck. It was not taken
from Lispenard. From Lispenard you cannot see
that deck, and that’s a very misguided
perception on that photo that they submitted.
I found that quite -- actually quite disturbing
that they kind of manipulated the photo to make
it look like here’s the deck, it’s there, you
know, but truly from Lispenard Avenue you
cannot see that deck.

Almost every house along California
and backs up to Lispenard has a bump out of
some level. His neighbor to the right of us
put one in. As Larry said, it was a 2 foot
variance. It didn’t seem like it was going to
be very much, but now between the pylons that

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to have equipment fall over the wall. He
didn’t really address the wall. I don’t even
know how they’re going to get equipment down
there with the amount of steps it takes to get
to the backyard from California Road to his
backyard, which is the Ottomanelli’s. It’s
quite a depth. But I guess they’ll work that
out.

I guess my last point really is we
would like the resolution and a permit, if
granted, to state that they should respectfully
acknowledge the fact that the shrubs are
currently there, have been for 20 plus years,
should be back up on that wall to present as
much privacy as possible to everyone in the
surrounding area, including us behind them. As
far as the deck, we realize it’s an as of
right, and I respect that. However, again,
having it look right into your house is quite
different. You know, with binoculars you can
see anything. If I’m sitting on the deck and
I’m watching you, it’s a little bit creepy.
It’s just an uneasy feeling. I don’t have a
problem, again, with them improving their

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are holding up the deck and the yard space and
no greenery, it’s really not pretty. Now take
that Mr. and Mrs. Ottomanelli want to come 5
feet, which is 3 feet even further than that,
and go wider because they’re going to put this
deck on, now I’m going to have instead of 2 or
3 pylons, I’m going to have 6 or 8, which also
the plans don’t say. So where is their

backyard? How is this improving property
values when actually there’s going to be no
backyard and there’s no front yard on
California Road? The properties are very tight
from curb to door, so there isn’t even a front
yard. So I don’t see that giving up this 5
feet really is asset to any of us.

Our concern with the retaining wall
is, naturally, it’s been there way before we
were there, which is over 23 years, and that it
is the responsibility of Mr. and Mrs.
Ottomanelli to maintain that wall as part of
their ownership, and that we want to see that
it is kept structurally. Again, the answer the
architect gave talked about equipment. I got
the impression that it meant he would try not

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THE CHAIRMAN: Thank you for your
statements, Mrs. Giannelli.

Would anyone else like to be heard on
this application? We have someone else? Okay.

MR. POLIZZI: My name is Vinny
Polizzi. I live at 33 Lispenard.

I have no problem with the extension
that they want to do. My concern is privacy.
My neighbor right behind me did an extension in
2006. His original structure was half the size
that was currently there. It doesn’t bother me
one bit. I’m glad he put on an extension. I
have no privacy when I sit in my backyard. The
way I see you is the way I see them in my
backyard. I don’t like that. When I sit
outside, I would like to have some privacy.
The house two doors down that does have a deck,
they have trees that are 14 feet. I’ve been
living there 16 years, I never even knew there
was a deck there. That’s my concern. My kids,

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they have no privacy, but they close their shades. I prefer trees. That's my concern.
THE CHAIRMAN: Thank you for your time and your statement. Anybody else? Would anybody else like to be heard on this application?
(No comments.)
THE CHAIRMAN: Seeing no one else, I make a motion to close the public hearing portion of this application; is there a second to my motion?
MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. All in favor.
(All aye.)
THE CHAIRMAN: Okay. If the applicant would like to come forward and reply, if you would like, but while you're formulating your reply, I just want to make a note, it seems to be a theme part of your application, that issues of water runoff and maintenance management and retention of the soil are issues for the Building Department. What we're really hearing tonight is the area variance because DINA M. MORGAN, REPORTER

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your application is at variance with the law and you're looking to construct something outside of the setbacks. So those issues, although pertinent and certainly not out of bounds discussing them, are really going to be addressed more by the Building Department if this gets to the construction phase. Proceed.
MR. TISO: Just a couple of points. I'm just scratching my head a little bit. As I had stated when I first spoke, they could go get a permit tomorrow and put a deck on their property. The deck seems to be the big concern. I can sympathize to a degree, but at the same time as of right tomorrow they could go get a permit, put a deck on, put in lighting, and it's only because we're here for a variance for a family room, which by the way is only -- it's 18.8 percent, to answer Mr. Giannelli's question. It's 4.7 feet. It's 0.7 feet -- the family room that's there is already 0.7 feet over into the setback, that's why they're asking for 4 feet. That's why it's a total of 4.7, because there's already 0.7. So if they don't do anything and
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they just -- it's a cramped room, as you can see from these pictures, to begin with. I think they have a right as a homeowner, whether 20 years, 30 years, 40 years, if they decide now is the time we want to -- maybe their family got bigger, I'm not sure, this is the time maybe they want to expand the room. If you take anybody in Eastchester in an R-7.5 zone that has a standard lot, they wouldn't even be here. My clients live on a small lot and it's undersized, well undersized, and they're just looking for a little more elbow room.
The shrubs aren't going to be taken out. I think the neighbor just -- I was there the day he was trimming them back, because I used to have hemlocks, hemlocks you've got to cut them to get them to grow properly. Those hemlocks run from the north side of the property all the way around on the rear retaining wall.
Again, the expectation of privacy, my clients can already see into their second floor, okay. They can put this extension on,
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this extension can go to the foot of the wall, they can just simply go up to the second floor and look down into their kitchen. That's the way it's situated over there. Again, it is only 4 feet. I don't want to make this bigger than it is. It's 4 feet of space that they're looking for.

She mentioned self-creation. Self-creation, as we know, but so the public knows, is not fatal to an area variance. A use variance you have a self-creation test, they usually fail. Area variance it's just one prong of a five prong test. It gets no more weight to it than the other four prongs of the test.
That's basically all I have to say.

THE CHAIRMAN: Thank you for your reply. You're making a very succinct argument as an attorney.

Mr. Tiso, if I could just ask you one more thing, and again, this is not really for you, you've done your job as an attorney well, but this is something that when applicants come before me with similar applications the privacy
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issue, and sometimes you can’t do anything about it, I always find it a little odd because vision is a two way street. Right now I’m looking right at Michael -- this is probably the only time I’m looking down at you, Mike -- if I’m looking at him, he’s also looking at me.

I always wondered why a homeowner who’s putting an addition who could also be looked at, why they wouldn’t be equally concerned about the privacy. Now, I’m not a horticulturist so I can’t tell you what could or should be put up, right. You put mature plantings and trees, they could challenge the structural integrity of the retaining wall, so I’m not going to even get involved in that. My point is, that some type of screening should be as equally concerning to the homeowner putting up the addition. Again, you’re an attorney making an application, I’m just curious why the homeowner wouldn’t be more concerned than the neighbors, because if I put up a deck and I’m going to entertain, I don’t want anyone looking at me.

Not that I have any concern about what they would be seeing, but I would still think that’s

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I’m putting in an addition, maybe I want privacy. As I said, one way or the other you cannot see that other deck. I was like, wow, that’s a deck? Those trees are way up there, and they’re nice. Those trees are well maintained. You know, it’s a tough area I know. In my prior life as a town councilman, that area had a flooding problem. We were doing a 10 year plan to try to remediate that area, and I know drains and stuff were put in there. From a town perspective, that area floods. It always has. So the water concerns, they addressed they are going to remediate that, and I think their intention is to do the right thing, keep the water on the property. I kind of agree with your statement, having seen it, it’s stark. If I was building something, I would want consideration for my own self about putting something in there, and maybe that’s something that the homeowners could come to agree on or something. It strikes you when you look up how barren it is.

MR. TISO: Again, your points are well taken. That’s how it’s been for how many

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something to consider. I’m not suggesting that’s any condition to this application, but I just wanted to mention it.

The board usually at this point comments, I’ve made mine. So, Mr. Cahalin, do you have any comments or questions of this applicant?

MR. CAHALIN: I did go to this site.

THE CHAIRMAN: As you do to all. The public should know how hard you work on these.

MR. CAHALIN: I did not go to 110.

I’ll confess to that when we get to that, but I did go to this one. Actually, I didn’t go -- California Road there is terrible. I actually went in the back way. I went from the back street and I actually went through your property, but I do these things I know I’m not supposed to do sometimes. It’s striking. The elevation is the elevation, but it is barren.

In the pictures you see it. I understand the concern about some kind of screening, and I agree with them. If I was building an addition, I would be concerned about my privacy as well because I think it benefits both.

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MR. TISO: I'm not meant to be argumentative, they are neighbors, they all want to get along, but that's a rough one. Again, it goes back to the nature of where they live. It would be simple if they lived on level property like the tables and you could put, you know, a little screening and we're all good to go, but this is certainly a unique area of the town.

THE CHAIRMAN: Mr. Cahalin, anything further?

MR. CAHALIN: I'm finished.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: I do know the area very well. I've been there about a thousand times with a case for the town. Since I've been on this board about six, seven, eight years, we have actually gone out of our way when it comes to the screening issue to try and project privacy. Off the top of my head, I could name three cases forcing them as conditions to have screening. I do think for me, personally, you should think very heavy about trying to screen this to give them some privacy for not only the

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neighbor's sake but for your sake. How you do that, I'm not an arborist or a horticulturist, but I could certainly think of how we could do it as a condition if it really came down to it. I would suggest before we do it or think about it doing it, that you talk to each other and you work out a way to screen it.

MR. TISO: Certainly if you put a condition on it, the condition you would have to fill the blank of what to put there to effectuate the screening, and I'm saying with the height where you're talking where that deck is going to go, I don't know what you're going to put there short of a tree.

MR. MILLER: I have an addition on my house, it's a completely different area, but we have like 12 feet arborvitae that give us privacy. If I didn't have the arborvitae, I would look right into probably the second floor of my neighbor's house. The arborvitae, they're big, trust me. We have to hire people to cut them.

MR. TISO: I'm sure your neighbor is level with you.

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MS. UHLE: Depending on how you proceed, you may want to reopen the public hearing.

THE CHAIRMAN: Correct. Mr. Nurzia, do you have anything?

MR. NURZIA: No, actually, you guys have said it all as far as the green thumb lessons. No further comments.

THE CHAIRMAN: I don't want to give you the impression that the homeowners are supposed to go through a substantial expense to have screening immediate, permanent, and can't be seen through at any cost. We're not suggesting that. What we're saying is that -- and my comment earlier was not so much that you must do this, but I'm not clear why more homeowners aren't as concerned. My comment doesn't change. As I said, if Michael doesn't like looking at me and I don't like looking at Michael, now we don't see each other anymore. It's visual, and if they see me, I see them. It's definitely something to consider.

MR. TISO: Again, your point is well taken, but I think they've been coexisting.

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this area. They're thinking, we're going out 4 feet and we already could see into their house, and so, we're going to continue to be able to see into their house.

THE CHAIRMAN: Fair enough. So I think what I'm going to do at this point is adjourn the application to the next -- the public hearing has been closed. What I think I would like to do, under our attorneys advice, is to adjourn the matter, they may or may not supplement their application. We could reopen the public hearing if that's the case at the next --

MS. UHLE: If you're going to reopen it, you have to reopen it now because, otherwise, it has to be re-noticed in the newspaper. That doesn't mean you have to take additional comments now, but you would have to reopen the public hearing now in order for it to be considered an open public hearing at the next meeting.

THE CHAIRMAN: I'm sorry that I looked at my attorney and then looked at Ms. Uhle. Sorry about that. Who am I supposed to look

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THE CHAIRMAN: Okay. Thank you for your presentation.

MR. TISO: Thank you very much. Have a good night.

THE CHAIRMAN: You too. Second item on the agenda, 62 Lake Shore Drive. This is an application for an area variance to legalize a driveway, widening curb cut, and also an impervious surface area variance.

Mr. Iannacito, you appear before us frequently, so you know your application. The application has been submitted, we've had an opportunity to review it, either you could highlight or if you want to read the application, you can. It's whatever you want.

MR. IANNACITO: Good evening. My name is John Iannacito. I'm an architect and I'm representing Mr. and Mrs. Cantrelva this evening, the owners of the subject property.

We are here this evening requesting area variances to legalize an existing driveway width, existing curb cut width, and existing impervious coverage for an existing residence located at 62 Lake Shore Drive.

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Approval to construct a new single family residence on this property was granted in May of 2015. During one of the town inspections, it was discovered that the driveway width and the curb cut width exceeded the allowable dimensions. The approved plans that were submitted by the project architect did graphically indicate that the driveway would align with the proposed garage but it wasn't dimensioned, and it was never picked up until the driveway was constructed.

In addition, after the as-built survey was completed, it was discovered that modifications had been made by the pool designer and the landscape architect. The pool designer, the paved area exceeded the allowable coverage. Therefore, this evening we're requesting three area variances.

The first is for the driveway width where the allowable is 20 feet and the existing is 25.5 feet, an increase of 5.5 feet or 27.5 percent.

The second is for the curb cut length, where the allowable is 22 feet and the existing

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1 was on the drawing.
2 THE CHAIRMAN: I appreciate your
3 presentation. I didn’t mean to put you on the
4 spot, I just wanted you to know what the
5 Highway Superintendent had submitted.
6 Questions from the board; Mr. Nurzia?
7 MR. NURZIA: Under the heading of
8 sometimes you can’t choose your clients and you
9 just deal with the cards that are played them,
10 this is the second or third time you’ve had a
11 similar situation where somebody did something
12 in contravention of our regulations and you’re
13 left with the mess.
14 MR. IANNACITO: Yes. I just happened
15 to be at the Building Department the day he was
16 talking to Jay and he asked me to look at it.
17 I took a look at it. I said, okay, well, let’s
18 try.
19 MR. NURZIA: You’ll get points in
20 heaven for all of this.
21 MR. IANNACITO: I had nothing to do
22 with the initial design of the plan. I don’t
23 even know who the architect is. I’ve seen his
24 name, but I don’t know personally who he is.

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1 He’s not local.
2 MR. NURZIA: All joking aside, why
3 doesn’t the homeowner just scale it back to the
4 way it should be?
5 MR. IANNACITO: We had this discussion
6 at the counter, why not just cut it back and
7 avoid going for the variance, and this is
8 before we even knew he had a coverage problem.
9 The coverage problem only came out when I went
10 out to measure the driveway and I noticed all
11 these additional pavers and I said, you have to
12 get an as-built drawing, the survey. When he
13 did the calculations, we discovered that it was
14 very high. Now --
15 THE CHAIRMAN: If I may, Mr.
16 Iannacito -- this is very unusual procedurally
17 for me to ask questions before the other
18 comments -- cutting to the chase, it seems like
19 the superintendent’s objection and the policy
20 of the town is really with the issue of the
21 curb cut, not so much the issue of the
22 impervious surface. Maybe changing the curb
23 cut but leaving impervious surface so you could
24 come in with a much lesser curb cut but you’re

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straight ahead. I think we've had other areas in town where we worry about curb cuts and we've been very, very strong about keeping the size of the curb cut to what the law requires it to be.

The other thing, you're not talking about a small change in the impervious surface here. It's a big number. When you look at that property, those solid concrete walls in the back are just so out of character with that neighborhood. Don't get me wrong, when you look at the house, it belongs in Laguna Beach or something like that but not in the back of Lake Isle, from my perspective. There's a lot of concrete on that property to hold up that back deck.

MR. IANNACITO: Well, they raised the pool up.

MR. CAHALIN: I mean, that's why.

MR. IANNACITO: And it wouldn't have been my first way of going about it either.

MR. CAHALIN: There's no other way to do it, I understand why they did it, but, you know, I can't believe that the contractor...

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wouldn't dimension it before he built it.

MR. IANNACITO: Well, the driveway. The contractor probably wouldn't have known what the limitations are. As far as the impervious surfaces, there was just a misstep between what was approved at the ARB and planning. Then when the pool design was submitted as a separate permit, there were no calculations on that drawing, so there was no reference back to the approved plan. Looking at where he could reduce the coverage here, there is no way. The driveway is necessary to get into the garage. The walkway is necessary to get into the front door. The rest of it is concrete bunker.

MR. CAHALIN: Solid. It's a bunker, yes.

MR. IANNACITO: You have to remove a portion of the house.

MR. CAHALIN: The funny part is, when you look at it from a distance, you wouldn't even know that curb cut made any difference because it's in such a big part of the town.

The houses are so spacious and the driveways...
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always very flexible when you deal with the
board, so I don't want you to think that the
commentary limits you to any variation at all
or none. You could do whatever you like. You
could taper it, you could do nothing, you could
even make an S out of it.

MR. IANNACITO: I may talk to the
client and he may say, no, he doesn't want to
do anything.

THE CHAIRMAN: I don't want you to
think we're trying to steer you. I appreciate
your flexibility, and I think that's a smart
course.

MR. CAHALIN: So do I. So do I.
THE CHAIRMAN: So we're going to leave
the application open, and we're going to
adjourn this to our next meeting.

MR. IANNACITO: Thank you.
THE CHAIRMAN: Thank you, Mr.
Iannacito. Okay --

MR. TUDISCO: Do you have to do a
formal motion to adjourn?
THE CHAIRMAN: Our attorney has once
again -- correct, under Robert's rules I should

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two and a half story addition at the existing
residence at 63 Maple in order to create three
additional bedrooms. This is due to the
growing family of the applicant.

What we've done is we've utilized the
existing foundation footprint as an economical
solution for this one and a half story addition
above the existing one story for this proposed
second floor. The existing structure is
non-conforming. In specific, it's the side
yard setback. Since it is an R-6 zone, it's
currently 3.8 and we would have needed 10 feet.

Furthermore, there is a garage
adjacent to this on the property which is
non-conforming. It is a deteriorating garage.
We intend on removing it completely and we're
proposing a conforming detached one and a half
story garage. The current garage is about 8
feet from the principal building, and we will
be maintaining the required separation of 10
feet.

In addition, as you could see here,
this is also another area that it's an
extension to the kitchen area, which is not a

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have made a motion to adjourn the application
to the next meeting; is there a second to my
motion?

MR. CAHALIN: Second.
THE CHAIRMAN: All in favor.

(All aye.)
THE CHAIRMAN: I would like to be the
dictator, but my motion needs to be seconded.
I'm being swept up by Trump mania.

MR. CAHALIN: Careful.
THE CHAIRMAN: Okay. The next item is
number 6, 17-08, 63 Maple Street.

While you're setting up, this is an
application which is proposing a 2.5 story
addition to the rear of an existing 2.5 story
residence.

Mr. Maiorano, you know already that
you don't need to reread the application but
you can do whatever you like. It doesn't help
or hurt your application. So proceed.

MR. MAIORANO: Okay. Good evening,
Chairman and Board members. My name is Marco
Maiorano, the engineer of record. On behalf of
the applicant, Mary McCourt, we are proposing a

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THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No, sir.

THE CHAIRMAN: I don't have any either. It's a very straightforward application.

So I have a motion to open this matter to public commentary; is there a second to my motion?

MR. NURZIA: Second.

THE CHAIRMAN: Mr. Nurzia. All in favor.

(All aye.)

THE CHAIRMAN: Would anyone like to come forth and be heard on this application?

(No comments.)

THE CHAIRMAN: Seeing nobody, I make a motion to close the public hearing on this application; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: Now I do need to ask; Mr. Cahalin, any questions or comments?

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MR. CAHALIN: Still nothing.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: None.

THE CHAIRMAN: And I have nothing. Mr. Maiorano, this is a straightforward application. This is from Catholic school commentary, your handwriting was exemplary. I read everything perfectly. Well done.

I now make a motion to have this application adjourned for resolution at the next meeting; is there a second?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)

THE CHAIRMAN: Thank you.

MR. MAIORANO: Thank you.

THE CHAIRMAN: Okay. Final matter for the evening is Item 7, 17-13, 96 Stebbins Avenue.

While you're setting up, it's an application for an area variance to legalize an existing recently installed fence.

MR. IANNACITO: Good evening, again.

John Iannacito, architect representing Mr. and Mrs. Conybeare this evening. With me tonight is Janna Conybeare.

We are requesting an area variance to legalize an existing 72 inch high fence at the side yard of an existing single family residence. A permit to construct the 72 inch high fence was granted in January of 2017. Based on the location of the front door on this property, the fence was approved for a rear yard installation where a 72 inch high fence is permitted. It was later discovered that the yard opposite the front door is not actually considered the rear yard on this property. It's considered the side yard for zoning purposes and setback reasons. So we're here this evening to request an area variance for this highlighted portion of the fence along the side yard. The variance is for a 72 inch fence where a 48 inch fence is required, an increase of 24 inches or 50 percent. Thank you for your time.

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time.

THE CHAIRMAN: Thank you for your presentation. Questions; Mr. Nurzia?

MR. NURZIA: Unlike the prior matter, I don't have any questions.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Cahalin?

MR. CAHALIN: Very unusual, I have no questions.

THE CHAIRMAN: I have none either.

Very unusual for Mr. Cahalin. I have a motion to open this matter to a public hearing; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: Would anyone like to be heard on this?

(No comments.)

THE CHAIRMAN: Seeing no one except Ms. Conybeare -- I assume you're for the application. I'm going to make a motion to
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close this matter to the public hearing.

MR. CAHALIN: Second.

THE CHAIRMAN: Second by Mr. Cahalin.

All in favor.

(All aye.)

THE CHAIRMAN: Board anything; Mr. Nurzia?

MR. NURZIA: No.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Cahalin?

MR. CAHALIN: None.

THE CHAIRMAN: Very straightforward application and no objection to it.

I'm going to make a motion to adjourn this matter for resolution at the next meeting; is there second?

MR. NURZIA: Second.

THE CHAIRMAN: Mr. Nurzia. All in favor.

(All aye.)

MR. IANNACITO: Thank you.

THE CHAIRMAN: Now I'm making a motion to close our meeting for this evening.

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CERTIFICATION

STATE OF NEW YORK

COUNTY OF WESTCHESTER

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 1st day of May, 2017.

DINA M. MORGAN
Court Reporter

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CORRECTION SHEET

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