EASTCHESTER ZBA - 5/14/19

ACTING CHAIRMAN MILLER: Good evening and welcome to the Town of Eastchester Zoning Board meeting for the month of May. Mr. Pillia, the Chairman of the Board, is a little under the weather tonight, so I'll be filling in for him. I will do the best that I can. Please bear with me. I'm sure that Ms. Uhle will correct me if I make any mistakes.

At this point, would everyone please stand for the Pledge of Allegiance.

(Whereupon the Pledge of Allegiance was said.)

ACTING CHAIRMAN MILLER: We'll begin with a quick roll call of the resolutions and new applications. Let's start out with resolutions. 18-45, 20 Nelson Road, it has been adjourned; correct?

MS. UHLE: Yes.

ACTING CHAIRMAN MILLER: I should point out that you will see we're missing obviously a board member, so in order to succeed tonight, if you have a two/two vote, that will be considered a denial. You may want to think about that if you intend on moving forward.

Next, 19-01, 454 California Road;

ACTING CHAIRMAN MILLER: We'll proceed with that.

19-11, 118 Swanoy Boulevard.

Present. Do you wish to proceed? Okay.

Let's move on to new business. 19-17, 1 Morgan Street; anyone here? Ready to proceed?

APPLICANT: Ready to proceed.

ACTING CHAIRMAN MILLER: 19-14, 38 Forbes Boulevard; ready to proceed?

APPLICANT: Yes.

ACTING CHAIRMAN MILLER: 19-13, 2 Pasadena Road; ready to proceed?

APPLICANT: Yes.

ACTING CHAIRMAN MILLER: 38 Lee Avenue; ready to proceed?

APPLICANT: Yes.
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MS. UHLE: Just a clarification.

ACTING CHAIRMAN MILLER: I would make a motion to approve the minutes of the last meeting, which were held on March 12, 2019; is there a second?

MR. CAHALIN: Second.

ACTING CHAIRMAN MILLER: Mr. Cahalin with a second. Everyone agree?

(All aye.)

ACTING CHAIRMAN MILLER: The minutes have been approved.

MS. UHLE: Now you move on to the resolutions.

ACTING CHAIRMAN MILLER: First resolution is 19-17, 1 Morgan Street. That's been adjourned, correct, Margaret?


ACTING CHAIRMAN MILLER: 19-01, 454 California Road, which is an application for an area variance to construct a one story rear addition to an existing family residence. I would make a motion to approve the resolution;

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small addition at the back of the house that was built in the 1970's. The addition is one story raised above grade on posts with a patio below.

Dylan purchased the house in 2010 unaware that the addition built over 30 years prior had not been permitted or approved. He is now in the process of selling the house and in contract to purchase another home in Eastchester. The buyer's attorney discovered the addition was never legalized, so Dylan is trying to continue as planned with a closing date in June. We're therefore requesting four variances for the addition.

Due to the small lot size, which is about 3,500 square feet, the existing house, which was built in 1927, did not meet today's building requirements, and therefore, the addition that we're now seeking variances for does not as well.

The first two variances relate to setbacks. The existing house infringes on the allowable setbacks on all but one side. The addition, therefore, also extends into the

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allowable rear and side setbacks.

The third and fourth variances relate
to allowable building coverage and impervious
surface coverage. Again, the original house
exceeded the allowable building coverage and
impervious surface coverage for the small site,
and therefore, the addition does as well.
The addition is at the back of the
house. It could barely be seen from the
street. I included some pictures on the board
that shows images from the patio below, and it
shows the steep slope going down to Marbledale
Road, and there are trees there that obstruct
the view of the addition from the commercial
properties on Marbledale. The addition has had
no impact on the neighbors the last 40 plus
years that it’s been there. We, therefore,
request that the variances should be granted.

Any questions?

ACTING CHAIRMAN MILLER: I’ll reserve
questions right now. Mr. Cahalin, any
questions?

MR. CAHALIN: No.

ACTING CHAIRMAN MILLER: Mr. Nurzia?

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impervious coverage. The maximum permitted coverage is 4,734 square feet and the proposed is 5,488, an increase of 754 square feet or 15.9 percent. The second variance is for the circular drive width. The allowable driveway width is 12 feet and a portion of the proposed driveway is 13.2 feet, an increase of 1.2 feet or 10 percent.

The circular driveway is needed by the family who lives at the house to minimize the number of steps required to get up to the front entrance of the house because the house is set up higher, and also to provide a better access for a family with young children and elderly parents.

The proposed driveway will be similar to other properties in the neighborhood, and it will not have any adverse effect on the neighborhood.

I’m going to show you a blow up of the driveway. We have a blow up of the circular drive. The circular drive will have stone walls on both sides. On the right side here, the driveway will slope up to a flat area.

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which will connect to an existing walkway that goes up to the front entrance. Right now, they go up about 14 steps from the driveway to get to the front entrance. We’re going to eliminate most of those and have five steps. At this point, the driveway slopes back down towards the street and towards the expanded driveway to allow access to the existing garage. The existing garage currently has an existing retaining wall along the right side, and there will be a new retaining wall right in front of the garage doors. So the expanded driveway is required to allow the vehicle to maneuver backwards into this position and then out. This is the reason for the expanded driveway.

ACTING CHAIRMAN MILLER: At this point, I’ll open this up to questions from the board members. Mr. Cahalin, any questions?

MR. CAHALIN: Yes. I have to call you on this one. I’ve driven around the neighborhood, there’s 1.24. 24 Forbes is the only other circular driveway I could find.

MR. IANNACITO: I thought there were

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MR. IANNACITO: This is the reason we're doing it, we're trying to reduce the amount of steps to get to the front entrance.

MR. CAHALIN: That I got completely. I understand why. I don't agree with the comment that it's not a change in the neighborhood. It is a change in the neighborhood.

MR. IANNACITO: I mean, most of the houses in the neighborhood have large driveways.

MR. CAHALIN: That's not what we're talking about. We're not talking about large driveways. We're talking about circular driveways.

MR. IANNACITO: Okay. But there are plenty of houses in Eastchester with circular drives.

MR. CAHALIN: I wouldn't put that out there on a bet.

MR. IANNACITO: You have to meet a certain criteria to have a circular drive.

MR. CAHALIN: I'm not denying that.

Here we're creating an imperious surface.

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Problem that's not there.

MR. IANNACITO: Correct. It is a self-created problem.

MR. CAHALIN: Which is part of the test.

MR. IANNACITO: Which is part of the test, but it's not the only...

MR. CAHALIN: No, but it's a significant part of the test.

MR. IANNACITO: I think when you look at the value of the variance, it's only 15 percent more than what's allowed. If you look at the previous application, they were almost 30 percent over the allowable on coverage.

MR. CAHALIN: Which one? The one we just did?

MR. IANNACITO: Yes, on tonight.

MR. CAHALIN: Okay. Every property is different, so the percentages -- that percentage -- that's not a good argument in my mind to make just because one is 30 and one is 15. If you're on a bigger lot size, the numerator and the denominator change the math.

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2 resolution; is there a second?
3 MR. NURZIA: Second.
4 ACTING CHAIRMAN MILLER: Second by Mr. Nurzia. All in favor.
5 (All aye.)
6 ACTING CHAIRMAN MILLER: The application is approved.
7 MS. UHLE: It's not approved.
8 ACTING CHAIRMAN MILLER: Oh, sorry.
9 Application is adjourned not approved.
10 Next application is 19-13, 2 Pasadena Road. As you're setting up, this is an application for an area variance to construct a second story addition over an existing one story addition with a rear yard setback of 14.5 feet whereas a minimum of 25 feet is required, a deficiency of 10.5 feet or 42 percent.
12 MR. MAIORANO: Good evening, board members. My name is Adamo Maiorano from Community Designs and Engineering. On behalf of the owner and applicant, Cynthia Roberto, we are proposing, as you said, a one story addition over an existing one story in the rear.

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1 yard.
2 The owner wishes to increase their master bedroom in order to create a master bedroom suite with walk-in closets and master bath. In order to do so, the ideal plan, layout, and most economical way to go about doing this is to build over the existing one story. In doing so, this will increase the non-conformity because as it is situated in the R-7.5 zoning district, the rear setback minimum is required to be 25 feet and we are at 14.5 feet, so it's a deficiency of 10.5 feet. We are here today looking for approval to proceed with the one story addition. Basically, as you could see from the side elevation, that dotted dash line is the existing structure above where the master bedroom is as it exists today, and what we are proposing is to go over that structure in the newly proposed addition. From the front of the house, it won't be visible the way the roof is situated, the gable. As far as the existing site features, it is heavily dense screened in the rear yard and side yards by mature DINA M. MORGAN, REPORTER

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1 planting. Actually, the neighbor that is situated in the rear yard facing New Rochelle Road has a very large, oversized lot, and their side yard setback is very far away from where this addition will be placed. So it doesn't really create any close boundaries to the neighbors.
2 Other than that, any questions I'll be happy to answer.
3 ACTING CHAIRMAN MILLER: I'll open this up to questions from the board members.
4 We'll start in reverse; Mr. DeMarco?
5 MR. DE MARCO: No questions.
6 ACTING CHAIRMAN MILLER: Mr. Nurzia?
7 MR. NURZIA: No questions.
8 ACTING CHAIRMAN MILLER: I have no questions. Mr. Cahalin?
9 MR. CAHALIN: None.
10 ACTING CHAIRMAN MILLER: I will make a motion to open this application up to the public; is there a second?
11 MR. CAHALIN: Second.
12 ACTING CHAIRMAN MILLER: All in favor. (All aye.)

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architect, and I'm representing Mr. and Mrs. Franklin this evening, the owners of the subject property.

The proposed scope of work -- I'll point it out on the plans -- we are proposing repairs and reconstruction of an existing front porch at the front of the house; we're proposing to remove an existing detached garage highlighted here in purple at the rear of the property; proposing a one story garage addition at the side of the existing residence; and site alterations, including a reduction in the size of the patio and the size of the driveway, resulting in a nett decrease to the impervious surfaces.

MR. CAHALIN: John, I have to give you a hard time every once in awhile.

MR. IANNACITO: So we're requesting three area variances on this one.

The first one is for the front yard setback to the covered porch; the existing and proposed front yard setback is 13.3 feet and the required is 26 feet, a deficiency of 12.7 or 48.8 percent. The second is for the front

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porch width; the permitted width of a porch is 10.9, which would be 30 percent of the overall front facade. The existing and proposed widths are 20.4, which is 56 percent on the front facade, an increase of 9.5 feet or 87.1 percent. The third variance is for the setback to the new garage. The proposed front yard setback is 20.9 feet and the required is 30 feet, a deficiency of 9.1 or 30.3 percent.

So the first two requested variances are for the front porch and are existing. They are required because the porch is being rebuilt. There is no change to the existing setback or the existing width of the porch, and there's no change to the existing non-conforming values. The third variance is for the garage, which is an improvement to the site because it will create a better use of all open space at the rear yard, and it decreases the overall coverage on the property.

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

ACTING CHAIRMAN MILLER: At this moment, we'll open this up to questions from

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42 Stewart Place. Just very quickly as you're setting up, this is an application to reapprove area variances related to a proposed five lot subdivision that were originally approved April 13th, 2016 but have subsequently expired. Please state your name.

MR. ANDERSON: Good evening. Steve Anderson from Gabriel Senor, PC, land surveyor and engineers. We're bringing this before you again because it needs to be reapproved. With the subdivision process, the time limits ran out because it was going for approvals with Suez and the DPW and the Health Department. So it's back to you because it's required. Essentially everything is the same as your initial approval. I don't know whether you need me to go through them all.

ACTING CHAIRMAN MILLER: Speaking for me, I'm good. I don't want to keep you from going if you feel you need to.

MR. ANDERSON: Okay. I'll just go through quickly. Lot 1 on the lot is in an R-5 zone, so it doesn't need any variances. Basically the rest of the lots, 2, 3 and 4,

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need variance for the actual lot area and the setbacks. We did come to an agreement for a 10 foot setback, which is showing on the subdivision map, and effective square is usually affected on that. The other main variances were for the roadway. We brought the radius down to 50 feet instead of 60 just to reduce impervious surface.

The other issue was requirement of a 12 foot radius at the intersection of Water and the new street because one lot was owned by another individual so we couldn't take that land. That's about it. That's all the variances we need.

ACTING CHAIRMAN MILLER: I'll open this up for comments from the board. We'll start with Mr. Cahalin.

MR. CAHALIN: Sure. I remember this well. They had an 8 foot setback on these lots and they agreed to do 10, which was a big deal, I think. From the way it was built, it's going to be built out. I'll believe him when he says there's no other variance changes.

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MR. ANDERSON: There would be at least
25 feet to the rear yard. It should be about
25 feet here and an addition 10 feet there. I
think on that - there is only one lot that
would affect these setbacks because this house
is staying. The one at Stewart Place is
staying. So it's about 35 feet.

MR. GAZDA: Where the setback is
limited, are you proposing any privacy walls?

MR. ANDERSON: There will probably be
plantings along here.

MS. UHLE: Also, this is actually just
for subdivision approval. This is for
subdivision approval, which allows them to have
the building lots. They actually did get
approvals for single family homes. They will
have to come back before the board for those
approvals as well, and at that time you would
be notified about that, and that's when the
Planning Board could talk about landscape
screening or fencing or something like that.

This is just allowing those building lots.

They have to come back before the Architectural
Review Board and the Planning Board to approve

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the actual homes that will be constructed on
each lot. At that point, they could talk about
landscaping and screening as well. I can't
remember the prior approvals with regard to
those issues, but because they're having to
reappear for each individual home, those could
be discussed in a lot more detail.

ACTING CHAIRMAN MILLER: Anyone else
wish to comment?

(No comments.)

ACTING CHAIRMAN MILLER: Not seeing
anybody, I make a motion to close the public
hearing; is there a second?

MR. CAHALIN: Second.

ACTING CHAIRMAN MILLER: Second by Mr.
Cahalin. All in favor.

(All aye.)

ACTING CHAIRMAN MILLER: I'll make a
last pass at the board; Mr. DeMarco?

MR. DE MARCO: No questions.

ACTING CHAIRMAN MILLER: Mr. Nurzia?

MR. NURZIA: No questions.

ACTING CHAIRMAN MILLER: Mr. Cahalin?

MR. CAHALIN: No questions.

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Mr. Barbuti: No. The variances that were requested originally were for, I believe, it was setbacks because the original footprint of house I believe was too close to the side property line.

Mr. Cahalin: So is the homeowner going to blame the contractor for this or who put the sidewalk in; who put the portico in; who created the existing variances that you need now? Whose fault is that?

Mr. Barbuti: That would be requested by the owner.

Mr. Cahalin: So the owner didn't even think to check that a 29 foot driveway is illegal?

Mr. Barbuti: Right.

Mr. Cahalin: Just decided, I like the way my garages line up, and I like my strip on one side, and I like my strip on the other side, whereas when I go into the neighborhood, I notice that everybody has an S shape on their driveway to be proper at 20 foot. They still have the width up by the garage doors, but they are not part of the street.

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to check? I mean, we have contractors who do this and --

Mr. Barbuti: This is Mr. Stricker, the owner.

Mr. Stricker: May I speak?

Acting Chairman Miller: Sure.

Mr. Stricker: So the driveway -- we don't have a picture -- the driveway is actually 20 feet, 21 feet, but when we add the walkway in where the portico is for the front door, that's how you get 29. That's how we're over. It's only a little, tiny -- do you have a picture? It was in the folder.

Acting Chairman Miller: We have pictures.

Mr. Cahalin: I've been there, I know what it looks like.

Mr. Stricker: The driveway is in code of 20, 21 feet, but I guess they're including the walkway.

Mr. Cahalin: The curb cut is 29 feet; right?

Mr. Stricker: No. The curbing in the front is 20 feet, which is in code. If you

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have the picture --

ACTING CHAIRMAN MILLER: We all have pictures.

MR. CAHALIN: We all saw it.

MR. STRICKER: So just by like, you know, maybe 10 feet from the front door, it goes to 29 feet, but the rest is at 20, 21 feet, which is legal. The walkway, you know, I didn't know how else to get to the back of the house without a walkway unless I'm walking through wet grass or whatever. The patio, you know, we have a lot of kids, so we did a patio. I'm over by about 500 square feet. So I don't know how I can cut this back. You know, I didn't want to do it on purpose. It's not like something we're doing just because out of spite.

ACTING CHAIRMAN MILLER: Again, this happens all the time in the town. Simply my question is: Did you know you were going to be in violation when you did this?

MR. STRICKER: Obviously, I didn't really know where the patio was. I don't even think we had a patio on the plans. So I just

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built the patio in the back, and then my beautiful next door neighbor called the city on me to complain.

MR. CAHALIN: That was my next question: How did we find out about this?

MR. STRICKER: You'll hear from them in a couple of minutes. It's been nonstop complaining about this project and my house. I don't know how to make this smaller.

ACTING CHAIRMAN MILLER: Mr. Nurzia, any questions?

MR. NURZIA: Yes. I empathize with you because you're in a non-enviable position of trying to explain something where something happened and your client just said that he needed the patio and this and that and the walkway and here we are. Ultimately, at the end of the day, you either ask for approval from us or you ask for forgiveness about doing this, and I'm not sure how we're supposed to look at this. Something was done, and we didn't create the mistake, you or your client or somehow this was created. Just from setting a precedent standard, are we supposed to say,

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there's -- well, the way it was originally designed, there are dry wells in the rear yard. There is no drain that is directed toward any of the neighbors, as far as I know. I haven't heard any complaints from the Building Department.

MS. UHLE: As part of the legalization process, they will have to provide a storm water management plan and demonstrate that dry wells have been installed to accommodate the increase in runoff.

MR. BARBUTI: Margaret is right, we have not designed any drainage for the additional impervious surface. That will be done. As I said, there were originally drainage units put in the ground for the addition and some of the site work. Like I said, as far as I could tell, nobody has told me there are any drainage issues with the neighbors.

ACTING CHAIRMAN MILLER: Mr. Cahalin, any questions?

MR. CAHALIN: No.

ACTING CHAIRMAN MILLER: I'll make an DINA M. MORGAN, REPORTER

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the driveway is -- I just looked at it -- it's 22 feet the cut, and then it widens to 29.

MR. TUDISCO: I just want to add something to what Ms. Uhle said. As a general practice, those measurements are calculated and checked by the Building Department, but we're dealing with two applications here essentially.

There was an original application that was submitted several years ago that was --

MS. YANNACO: It was only last year.

MR. TUDISCO: -- That was ultimately approved. It was back in 2016, I believe, the original one, Margaret?

MS. YANNACO: No. They bought the house in 2017.

MR. TUDISCO: Originally an application was made to the Zoning and Planning Boards in 2016, I believe approvals were granted in 2017. Those were eventually approved and those calculations were checked and so on. This is a new application because this is at variance with what was approved initially. So there are two different calculations.

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MS. YANNACO: As far as the owner of
the property being unaware of what was going
on, he built the entire house himself. He tore
the entire house down. He put up plywood, took
the inside walls out of the house, and he built
it from the ground up without a permit. No
permit was ever issued. The permit was issued
10 feet from Dorchester Road, put the garage
back, add another garage, put a second floor on
and as many rooms as he wanted to. Nowhere did
it say that he could tear the house down and
build a new house. So being that he got away
with that, he said, why not go and make, you
know, big pathways in the back, the side,
double the patio, put a jacuzzi 5 feet from the
neighbor's property, put electric power lines
on the fence that belongs to the neighbor at 7
Dorchester. This is what this man did. He's a
builder, he's a contractor, and he did all the
work himself. Just so you know, I'm retired, I
live there every day, every day.

Now that he has a pool, I'm on
record -- I didn't come the two times that I
should have came, it was my daughter's birthday
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Okay, next question -- you answered
the question -- did the site plan map that was
presented before construction include any of
the aforementioned --

MS. UHLE: I'll just clarify a couple
of things. So the applicant received variances
previously and also site plan approval from the
Planning Board. All of that was approved
except for what's shown on this plan here. So
the original site plan map did not show these
tings, but that's the very reason they're here
now, is because it was discovered that they
built some additional impervious surfaces and
that's why they're here. Everything up until
this point, they've done with proper permits
and approvals. So the only reason they're here
is because of the additional impervious
surfaces that they built.

MS. YANNACO: I just want to make a
point. It goes over what the application is
about. The impervious surfaces total 3719. I
just received a copy of his --

MS. UHLE: Survey.

MS. YANNACO: His survey. This is his
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and my birthday. June 14th they had a meeting,
I didn't come, my mistake. September 13th I
didn't come, my birthday, my mistake. But now
I'm having an opportunity to address the board
and address the public and I want my grievances
heard.

Do you see that picture? That was
taken on September -- make sure the public sees
it -- that was September 25th, 2018. That's in
front of my house going all the way up to
Douglas and Leslie, the flooding problems.
I'll tell you though, you may thank me --

MR. TUDISCO: Ma'am, if you could
address the board.

MS. YANNACO: I want to know if Mrs.
McCluskey, Jean McCluskey, told this person who
bought this house that the house had 2 feet of
water in it at one time.

MR. TUDISCO: I think that's getting
far afield from what's going on tonight in
terms of what was represented when they bought
the house.

MS. YANNACO: It's about impervious
surfaces, but I'll go on. I'll shorten it up.

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1 were 50 year old hedges, they were 6 feet
2 height, 2 feet deep and 80 feet long, and he
3 said, I don't like them, I'm taking them down.
4 He took all his down. They were on the
5 borderline. He removed many of mine.
6 Getting back to the question, the
7 survey, he put a fence -- you need a survey,
8 you need a plan of where you're going to put
9 your fence. You're supposed to put your fence
10 on your property; is that correct?
11 ACTING CHAIRMAN MILLER: Yes.
12 MS. YANNACO: I'll go on. The area in
13 excess that he's asking for impervious surfaces
14 is half the footprint of my entire house. It's
15 565.8 square feet. The existing driveway, now
16 that I'm looking at it, it looks like the
17 driveway is cut 22, but I -- I know you said,
18 are you asking to forgive or to be lenient?
19 No. Somebody said that. Are you asking us to
20 accept what you did without a permit? He knew
21 very well -- this man knew very well what he
22 was doing. He built the same house up in
23 Ardsley. They call them McMansions. He knew
24 what he was doing, he's a builder. But I'll go
25
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1 fence because the fence -- in a way it pertains
2 to the impervious surfaces because he put the
3 post on my property and he poured haphazardly
4 cement all over my property. He threw rocks
5 all over my property and sand under the fence.
6 MR. TUDISCO: Ma'am, in terms of just
7 kind of streamlining it --
9 That's what I said, it's --
10 MR. TUDISCO: What the board is
11 reviewing tonight is the addition of impervious
12 surfaces from the original plan and the
13 additional variances that are required for it.
14 If you could limit your --
15 MS. YANNACO: Is cement an impervious
16 surface?
17 MS. UHLE: Yes.
18 MS. YANNACO: He poured it all over my
19 property and his. I don't think he counted
20 that. If you left him to count impervious
21 surfaces, you got the wrong guy to measure. I
22 don't know how the house is even standing. His
23 attorney sent me threatening letters -- and I'm
24 going to wrap this up -- he sent a threatening
25
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2 California Road, Highland Avenue, California
3 Road and Manchester Road, Joyce Road,
4 Dorchester Road and Huntley Road, Rose Avenue,
5 Crawford Street, Crawford Street and Middleton
6 Place. This information and the photos I am
7 presenting are relevant to the requested
8 variance as it aggrieves both myself and the
9 rest of the Huntley area. This flooding
10 continues in the area despite new sewers being
11 installed. Before the sewers were installed
12 and improved, they were worse. The fire
13 department did water rescues in front of my
14 house. People stood on top of their cars. I
15 don't know if Jean McCluskey told him all this.
16 He should have known because he has two storm
17 drains on his property, one in the front
18 beautifully sodded around, and the one in the
19 back that he covered. This flooding continues
20 despite it. The streets have been closed and
21 barricaded and Eastchester sanitation trucks
22 have come since the new sewers have been
23 installed. This is 2.72 inches. That's
24 nothing. Look at the rain we're having now.
25 It came quickly. It was probably in less than
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2 covered with water. This is 51 Joyce. That's
3 his car. He didn't think it was going to
4 flood. He finally moved in. That's his house.
5 MR. TUDISCO: That's okay, just keep
6 it up there so we can see it on the camera.
7 MS. YANNACO: This is 1 Huntley. The
8 water is almost up to the man's house. You
9 know this area we're talking about. This is my
10 house. This is the utility pole. This is my
11 house. These are the hedges that were there.
12 They're gone there. There is no more to absorb
13 the hedges. Those are my hedges. Wait, this
14 was 18. I thought the fence was in by then.
15 The fence is in. Those are my hedges that he
16 didn't cut down. Thank God they're still
17 there. I'm going to flip it over to the other
18 side. That is unbelievable, that picture.
19 That's in front of his house. I'm not saying
20 500 square feet his house is causing flooding.
21 The town floods. You follow the laws.
22 ACTING CHAIRMAN MILLER: Ma'am, during
23 this flooding in September, did you get water
24 in your house?
25 MS. YANNACO: No. I have five steps
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2 an hour or two. But that's not 10 inches of
3 rain that caused that flooding. And I have
4 more, but I'm done talking. I'm just going to
5 show you more pictures. You're welcome to keep
6 these pictures, the boards, and I have some
7 pictures here of all the cement on my property.
8 Were's the camera man?
9 ACTING CHAIRMAN MILLER: It's on
10 camera.
11 MS. YANNACO: I'll hold it up closer
12 to the camera.
13 MR. TUDISCO: Gary, could you take a
14 close up on that.
15 MS. YANNACO: Zoom in and you could
16 see that flooding. I'm going to put more
17 pictures up here. This is 7 Dorchester Road.
18 I went up onto the second floor and took that
19 picture. That's 7 Dorchester Road in their
20 driveway. Their driveway is like this. I
21 don't know how they didn't get water in their
22 house. This is 7 Dorchester. This is 7
23 Dorchester. This is the fence that's at the
24 back of 51 Joyce, and this is 7 Dorchester's
25 fence. This is their driveway completely
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that's my driveway. That's my car and that's
behind my driveway. So I can't get out. I'm a
cancer survivor. I'm going to be 68 years old,
I know you don't believe it --

MS. UHLE: Could you speak into the
microphone just because it picks it up for the
transcript.

MS. YANNACO: I'll say it again. I'm
going to be 68 years old in September. You got
to do what's right. He wants a variance, but I
don't know, he knew. He knew when I called
the town and everybody's busy. They listened
to me, though. Mr. King helped me a lot and,
of course, Margaret.

One more thing I want to say. He's
going to keep the jacuzzi. It's beautiful.
The house is beautiful. He's just going to
have to put better drainage in there and maybe
get rid of some of those pavers, if that's what
you choose to have him do. But he has a
jacuzzi, and if you have a jacuzzi, you can't
have blasting music when you go out to dinner
and leave your stereos on. He has three

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all you need are the pictures.

I know the Building Inspector has to
ask permission to go on his property, I don't
have to ask permission to look out my window.
All right. How was that?

ACTING CHAIRMAN MILLER: Thank you.


MS. YANNACO: I think I did a good
job.

ACTING CHAIRMAN MILLER: The pictures
are now part of the record, so we're going to
have to keep them.

MS. YANNACO: Excuse me.

MR. TUDISCO: The pictures are now
part of the record, so we're going to
keep them. No, you have to keep them there.

MS. YANNACO: Oh, keep them there.

MS. UHLE: I think she was going to
give them to us.

MS. YANNACO: Are we finished?

ACTING CHAIRMAN MILLER: No. You're
finished.

MS. YANNACO: I'm finished. There's
more pictures.

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speakers attached to his house.

MR. TUDISCO: Ma'am, if you could you
please just --

MR. CAHALIN: It has nothing to do
with it.

MS. YANNACO: It has nothing to do
with it?

MR. TUDISCO: If you could confine
your comments to the variances that are being
requested.

MS. YANNACO: Isn't the variance for
the pool?

MR. TUDISCO: Not for the music.

MS. YANNACO: It's not for the music,
but the music is attached to the pool. Just so
eybody knows, if you have a pool, the music
cannot be heard over the property.

ACTING CHAIRMAN MILLER: Miss, I'm
sorry, unless you're going to continue speaking
on something germane to the application, I have
to ask you to limit your comments.

MS. YANNACO: Limit my comments? We
were talking about the jacuzzi and the double
patio and you've got pictures of it. That's

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In light of that rather eloquent discussion, would the
applicant like to address any of the points
made?

MS. UHLE: Relative to the impervious
surfaces.

MR. STRICKER: Sorry about all this.

She had pictures from 2011 with the flooding.
It's the same flooding as 2019. We're in a
flood zone. We're at the bottom of the hill.
I really don't think 500 square feet of
impervious surfaces is causing more flooding
than what has previously happened in the past.
There are bigger sewers in there. I got
flooded also.

MR. DE MARCO: Let me ask you this, is
it true that you are in the construction
industry?

MR. STRICKER: Yes.

MR. DE MARCO: So is it also true that
you didn't come to the board when you made
these improvements seeking the variances?

MR. STRICKER: I built in different
neighborhoods --

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1 MR. DE MARCO: I'm not asking you
2 that. I'm asking, when you did these
3 improvements, did you come to the board and ask
4 for the variances.
5 MR. STRICKER: I did.
6 MR. DE MARCO: You did. But you're
7 back here now; why?
8 MR. STRICKER: I didn't think the
9 patio impervious surfaces was part of the
10 requirement. I thought a patio you could build
11 as we wanted. There was a patio in the back
12 there, and I just rebuilt a patio. I didn't
13 realize now because we added more square
14 footage and the driveway, it was going to go
15 into the impervious surfaces.
16 MR. DE MARCO: With your experience in
17 the industry, did it ever dawn upon you that
18 you might need approval for this additional
19 work that you hadn't applied for previously?
20 MR. STRICKER: I think if I added
21 square footage to the house, yes. A patio, I
22 didn't realize that or a driveway.
23 MR. DE MARCO: Okay.
24 MR. TUDISCO: There's more than just
25 impervious surfaces --

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1 the patio. There's a walkway, there's other
2 things on the side. There's lots of other
3 additional areas, it's not just the patio in
4 the back.
5 MR. STRICKER: I could get rid of some
6 of the areas on the side. There's a shed over
7 there, I could get rid of that. A walkway to
8 the back yard, I think that's kind of
9 necessary. I don't know how else you go from
10 the front yard to the back yard. The driveway
11 is necessary and the front door entrance is
12 necessary. The patio in the back is not huge.
13 It fits the house. We have kids that use the
14 patio. There is no basement. There's nowhere
15 to go. We have no basements in the
16 neighborhood.
17 ACTING CHAIRMAN MILLER: Any further
18 questions, Mark?
19 MR. DE MARCO: No, nothing.
20 ACTING CHAIRMAN MILLER: Mr. Nurzia,
21 any questions?
22 MR. NURZIA: You mentioned you're
23 willing to remove some of that excess, maybe
24 your architect could elaborate on that either
25
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1 now or at another meeting. Just looking at
2 that drawing right there, there's a lot of red
3 there, and that red is all the excess that you
4 were not approved for.
5 MR. STRICKER: Correct.
6 MR. BARBUTI: So while the neighbor
7 was presenting her case, I was actually talking
8 to the owner to try to figure out what we could
9 remove. There's a small patio over here that
10 he's telling me just has a hammock on it, so
11 that could be removed. That's probably about
12 100 square feet, 110 square feet. There's a
13 small, little patio on the side here that could
14 also be removed. We could swap those out. The
15 sidewalk, typically other municipalities if you
16 have a sidewalk and it's no greater than 3 or
17 4 feet, you don't have to count that into
18 impervious surfaces --
19 ACTING CHAIRMAN MILLER: Can I stop
20 you there?
21 MR. BARBUTI: Yes.
22 ACTING CHAIRMAN MILLER: This is
23 Eastchester, I don't care about the other --
24 MR. BARBUTI: No, I get it, I get it,

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ACTING CHAIRMAN MILLER: Let me just ask you a question here. Let's just hypothetically say all of that stays in place, is it affecting -- obviously it's impervious surface -- is it affecting the drainage to the neighbors?

MR. BARBUTI: Like I said before, as far as I know, I don't think the Building Department has gotten any complaints. I do have to do another calculation to figure out how many more dry wells I need to put in the rear yard. That will get piped with a trench drain, other drains, things like that, and it will go into the ground based on, you know, New York State DEC requirements for storm water management.

ACTING CHAIRMAN MILLER: My second question is more for your client. Are you a general contractor?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: You have your own company?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: You review drawings every day?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: You submit drawings on different job sites?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: Do you know how to read drawings?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: When you gave the town your drawings the first time around, obviously you read them before you gave them?

MR. STRICKER: We were worried about the structure of the house. We weren't worried about patio. Putting in a patio was the last thing on my mind.

ACTING CHAIRMAN MILLER: Let's get back to my question. When you submitted the drawing to the town, you obviously knew how to read the drawings?

MR. STRICKER: I know how that read them.

ACTING CHAIRMAN MILLER: You obviously know the drawing gives X and you're approved to do X and you have to do X and not Y; correct?

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MR. STRICKER: The approved drawing didn't have patios in the backyard at all.

ACTING CHAIRMAN MILLER: So patios weren't even approved then.

MR. STRICKER: It had the original patio from the old house, that's it.

ACTING CHAIRMAN MILLER: Did you try and duplicate the original patio from the old house? So you went beyond the original patio?

MR. STRICKER: Yes.

ACTING CHAIRMAN MILLER: So you knowing how to read a drawing, knowing what the town had permitted, you then went beyond the scope of what you were permitted; am I understanding you correctly?

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MR. STRICKER: The landscaping was an afterthought. We were building a house.

ACTING CHAIRMAN MILLER: Who did the landscaping? What's the name of the company?

MS. YANNACO: The company is him.

MR. CAHALIN: Ma'am, you can't --

MR. TUDISCO: You can't yell out from the floor.

ACTING CHAIRMAN MILLER: What's the name of the company that did the landscaping?

MR. STRICKER: Orellana Construction.

ACTING CHAIRMAN MILLER: What's the name of your company?

MR. STRICKER: (Inaudible) Renovation.

MR. DE MARCO: Did you GC the landscaping?

MR. STRICKER: I told him what we wanted done and he came up with a plan.

MR. DE MARCO: Did you show him the plans that you had approved?

MR. STRICKER: I must have.

ACTING CHAIRMAN MILLER: You must have or you did?

MR. STRICKER: I don't remember. We
came up with a plan to landscape the property, and I didn't know what was really allowed with patios. I'm not a landscape contractor.

MR. CAHALIN: Could I make a comment?

We understand the scope and the depth of situation here. What we really need to address is, I mean, I don't think we could continue with this application in its current form. I would like to see the architect come back to see what he could do to minimize this footprint. That's what I think is necessary here, if there are any changes at all.

MR. DE MARCO: Well, Michael, that's up to them.

MR. CAHALIN: That is correct.

MR. DE MARCO: If they want to revise and resubmit, that's up to them, or they could leave it as is and leave it to a vote.

MR. CAHALIN: If they don't want to do that, then we could vote on it next month. They already said they were talking about what they could do to minimize it, so I would think that the applicant may ask us if they want to come back. I don't know if that's the case.

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ACTING CHAIRMAN MILLER: Would you like to resubmit your application and modify it in some manner?

MR. BARBUTI: We'll revise the site plan to remove some of the impervious surfaces and I'll do calculations to see what we'll be over and how it would work.

ACTING CHAIRMAN MILLER: Margaret, I guess the proper procedure would be to adjourn this?

MR. TUDISCO: I would recommend to keep the public hearing open. I just also want to put something on the record. There is currently -- you could see it in the notes -- there's currently an enforcement case before the court which has been tracking this application. We've had some difficulty, and I don't know if it's the applicant's difficulty communicating with the architect or whatever the case may be, but the application has been kind of put back on a number of occasions and the court case keeps getting put back.

Certainly, the applicant has the right to address the issues raised by the board and come back at a later date.

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ACTING CHAIRMAN MILLER: So at this moment, I guess it would be appropriate for me to make an application to keep the public hearing open; is there a second?

MR. DE MARCO: Second.

MR. TUDISCO: It's open. I would just keep it open.

ACTING CHAIRMAN MILLER: Let's just keep it open then. Do I need to call the roll at this point, Rob?

MR. TUDISCO: I don't think you do.

The public hearing is open, you're not closing it, so I would keep it open, and then I think that the applicant is asking to come back with another plan, but I just want to caution that if you're going to submit an alternative plan, it's got to be submitted right of way because the court is going to want to know for that case.

MS. UHLE: Okay.

MS. UHLE: Let me talk to you after. I can talk to you about that tomorrow. The meeting is June 11th, so it would be the week prior to that meeting.

MR. BARBUTI: We don't need to re-notice?

ACTING CHAIRMAN MILLER: Margaret, this might be outside our scope but can we ask that an engineer's report be submitted with respect to the additional impervious surfaces?

MS. UHLE: Yes. The Building Department does review the storm water management plans, we have an architect that's a plan reviewer, but when we have all new construction or if we have other concerns, then we do refer them to our outside engineering consultant. So you could ask that our engineering consultant review the plans, yes.

ACTING CHAIRMAN MILLER: Could I make that request?

MS. UHLE: Sure.

MR. BARBUTI: So you're requesting along with the site plan, a revised storm water management plan based on the new --

MS. UHLE: Based on whatever you end up proposing, yes.

ACTING CHAIRMAN MILLER: So at this moment, I guess it would be appropriate for me to make an application to keep the public hearing open; is there a second?

MR. DE MARCO: Second.

MR. TUDISCO: It's open. I would just keep it open.

ACTING CHAIRMAN MILLER: Let's just keep it open then. Do I need to call the roll at this point, Rob?

MR. TUDISCO: I don't think you do.

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ACTING CHAIRMAN MILLER: Okay.
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you know, revised plans, so you could adjourn it to the next meeting.

ACTING CHAIRMAN MILLER: I make an application to adjourn this to the next meeting for a revised plan; is there a second?

MR. CAHALIN: Second.

ACTING CHAIRMAN MILLER: Second by Mr. Cahalin. All in favor.

(All aye.)

ACTING CHAIRMAN MILLER: The application is approved to resubmit for the next hearing.

I do not see any further business on our schedule for tonight. Unless somebody has any concerns they would like to raise at this point, I would make an application to close the hearing; is there a second?

MR. DE MARCO: Second.

ACTING CHAIRMAN MILLER: Second by Mr. DeMarco. All in favor.

(All aye.)

ACTING CHAIRMAN MILLER: And we are closed. Thank you.

MS. UHLE: Thank you.

DINA M. MORGAN, REPORTER

STATE OF NEW YORK )
) Ss.
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 13th day of June, 2019.

DINA M. MORGAN
Court Reporter

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