EASTCHESTER ZBA - 9/10/19
THE CHAIRMAN: Good evening. Welcome to the Town of Eastchester Zoning Board of Appeals meeting for September 10th, 2019. We start our meetings with the Pledge of Allegiance, so please rise. (Whereupon the Pledge of Allegiance was said.)

THE CHAIRMAN: So I'll give you the ground rules before we start. Mr. Miller, Mr. Miller, Mr. Chairman, I'm not sure if we're going to run afoul of some State law on this, but in view of tomorrow being 9/11, I would like to request that we take a brief moment of silence.

THE CHAIRMAN: I'll second your motion. So we'll take this opportunity to take a moment of silence for recognition of tomorrow.

(Whereupon a moment of silence was taken.)

THE CHAIRMAN: Thank you, Mr. Miller.

MR. MILLER: Thank you.

THE CHAIRMAN: So while everyone is getting settled in, just to go over the ground rules usually at this point of the meeting.

Firstly, we are governed and observe Robert's Rules of Parliamentary order.

Secondly, we have on our calendar, six matters that are on for resolution. Those, after I call the roll and take attendance, will be resolved and decided upon firstly. There is one matter that's old business that's still open to the public, and we will be proceeding with old business firstly, and then there are two items that are on for new business.

So let's start with the roll call. I will skip past the resolution items since they will be resolved tonight. Under old business, Item 7, 19-24, 7 Summit Street; is the applicant present?

APPLICANT: Yes.

THE CHAIRMAN: Are you ready to proceed?

APPLICANT: Yes.

THE CHAIRMAN: Thank you. Under new business, Item 8, which is 19-30, 59 Morgan Street; is the applicant present?

MR. ANNACITO: Yes.
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THE CHAIRMAN: Mr. Iannacito. Are you proceeding?

MR. IANNACITO: Yes.

THE CHAIRMAN: The last item under new business is Item 9, 19-31, 108 Brook Street; is the applicant present?

MR. IANNACITO: Yes.

THE CHAIRMAN: Mr. Iannacito, are you proceeding this evening?

MR. IANNACITO: Yes.

THE CHAIRMAN: Good. Okay. Before we go into our resolution portion, I make a motion to approve the minutes of both the May 14th, 2019 meeting and the June 11th, 2019 meeting; is there a second to my motion?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: Now, I have a motion to confirm that the ZBA has no objection to the Town of Eastchester Planning Board serving as lead agency under a SEQRA review for Application 19-42, 249 Main Street; is there a favor.

(All aye.)

THE CHAIRMAN: Okay. Item 1, is there a motion on Item 1?

MR. CAHALIN: Yes, Mr. Chairman. I make a motion to adopt a resolution denying Application 18-45, 20 Nelson Road.

THE CHAIRMAN: Thank you, Mr. Cahalin. Is there a second to his motion?

MR. MILLER: Second.

THE CHAIRMAN: By Mr. Miller. To the vote. Mr. Cahalin.

MR. CAHALIN: No.

THE CHAIRMAN: Actually, I'm sorry to correct you, you vote yes on the denial. So is that a yes?

MR. CAHALIN: That is a yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: No.

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MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. The last item under new application has been denied.

Item 2, this is Application 18-44, 51 Joyce Road. I make a motion to adopt a resolution approving Application 18-44, 51 Joyce Road; is there a second to my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: Mr. DeMarco. To the vote. Mr. Cahalin.

MR. CAHALIN: No.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: And I vote yes. That's been approved 4/1.

This is Application 19-16, 126 Brook Street. I make a motion to adopt a Negative Declaration for Application 19-16, 126 Brook Street; is there a second?

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MR. CAHALIN: I'll second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: I'll also make a motion approving Application 19-16, 126 Brook Street; is there a second?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. To the vote. Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: I vote yes. That application has been approved five to zero.

Number 4, Application 19-21, 66 Brambach Avenue. I make a motion to adopt a resolution approving Application 19-21, 66 Brambach Avenue; is there a second to my motion?
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MR. NURZIA: Second.
THE CHAIRMAN: Mr. Nurzia. To the vote. Mr. Cahalin.
MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.
THE CHAIRMAN: Mr. DeMarco.
MR. DE MARCO: Yes.
THE CHAIRMAN: I vote yes. That application has been approved five to zero.
Number 5, Application 19-22, 5 Brassie Road. I make a motion to adopt a resolution approving Application 19-22, 5 Brassie Road; is there a second?
MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. To the vote. Mr. Cahalin.
MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.
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THE CHAIRMAN: Mr. DeMarco.
MR. DE MARCO: Yes.
THE CHAIRMAN: I vote yes. That application has been approved five to zero.
Last item on the resolution calendar, 6, this is Application 19-23, 72 Stewart Avenue. I make a motion to adopt a resolution approving Application 19-23, 72 Stewart Avenue; is there a second?
MR. CAHALIN: I'll second.
THE CHAIRMAN: Mr. Cahalin. To the vote. Mr. Cahalin.
MR. CAHALIN: Yes.
THE CHAIRMAN: Mr. Miller.
MR. MILLER: Yes.
THE CHAIRMAN: Mr. Nurzia.
MR. NURZIA: Yes.
THE CHAIRMAN: Mr. DeMarco.
MR. DE MARCO: Yes.
THE CHAIRMAN: I vote yes. That application has been approved five to zero. Now for new business, Item 8 on the calendar, 19-30 -- I'm sorry, 7, 19-24, 7 Summit Street. The applicant can come up and
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set up. While you're doing that, I'm just going to remind the public that this is an area variance to construct an attached two car garage seeking rear yard setbacks, and just to also remind that the public hearing is still open. Perhaps the applicant can summarize the modifications to the original application.
MR. JIN: Good evening, board members, ladies and gentlemen. My name is Yigang Jin, homeowner of 7 Summit Street. I will be presenting today with my architect, Harry Toung.
The goal of this project is to add an attached two car garage at 7 Summit. This is the original proposal we presented for the last public hearing. We asked the Board to consider as a corner property -- 7 Summit really has a front yard and three side yards. We request the Board to interpret the rear yard as the second side yard with a required 9 foot setback. However, we received various feedback from the board members and neighbors. First of all, we respect all your opinions. Therefore, we have analyzed and modified our design with DINA M. MORGAN, REPORTER

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these concerns in mind. Please allow us to address these concerns today. We have also consulted with the Eastchester Building Department, the Highway Superintendent, and the Police Department to seek guidance in the areas of our expertise. What we are presenting tonight is a design that has no safety issues confirmed by the above authorities, that maintains the character of the neighborhood, and that enhances the physical and environmental qualities of our community.
This is the new design. Here are a couple of highlights for this new design.
First, we plan to eliminate the existing driveway entirely and replace it fully covered lawn. This will extend the character of the block by continuing the large expanse of front lawn. As you can see right here, this is a very beautiful front lawn right now from 1 Summit to the 7 Summit. More importantly, this will reduce the impervious area from nearly 3600 square feet to 3500 square feet due to the significant reduction of the driveway from 1150 square feet to 580 square feet. This will DINA M. MORGAN, REPORTER
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1. eliminate the flooding concerns due to the
2. reduced impervious area. This will also
3. increase the street parking on Summit by 17
4. feet, while only reducing street parking on
5. Overlook by 13 feet.
6. Second, we also plan to reduce the
7. size of the garage and the driveway. It's
8. right here. We will reduce the garage width
9. from 23 feet 4 inches to 22 feet, which will
10. reduce the variance percentage from 64 percent
11. to 59 percent. This will increase the setback
12. from 9 feet to 10 feet 4 inches, which provides
13. more open views and area view for the
14. neighbors. This will reduce the driveway width
15. from 21 feet 4 inches to 19 feet, which will
16. reduce the impervious area and, in turn, reduce
17. the risk of flooding. This will also reduce
18. the driveway curb cut from 14 feet 4 inches to
19. 13 feet, which will provide the neighbors more
20. street parking.
21. The redesign addresses several
22. concerns and issues raised by the board members
23. and neighbors last time. First of all, the
24. concern of the safety issue. We all agree this
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1. is probably the most important concern because
2. there are many children in this neighborhood.
3. So we consulted with the Eastchester Building
4. Department, the Highway Superintendent, and the
5. Police Department. They have all determined
6. and confirmed that the design of the proposed
7. setback, the proposed driveway, and the
8. proposed curb cut with the utility pole near
9. the driveway will not result in any safety
10. issues.
11. Let's take an example of the
12. neighborhood. If you look at the bottom part
13. of this board, we found several properties in
14. the neighborhood which has very similar
15. situation like us, their driveway width reduced
16. by the location of the utility pole. As you
17. can see, the driveway tamper when it engage the
18. street in order to clear the utility pole.
19. These are just a couple of examples. There are
20. more examples in the package.
21. Based on the above, we really believe
22. the safety issue is not a concern.
23. Secondly, the concern of the detriment
24. to the character of the neighborhood. As I
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1. previously mentioned, as a corner property, we
2. are requesting the Board to grant a variance
3. that waives the 25 foot requirement for the
4. rear yard setback, and interpret the rear yard
5. as a second side yard with a required 9 foot
6. setback.
7. Let's take a look at the site plan
8. again. The proposed setback right now has
9. 10 feet 4 inches right here, which is much
10. greater than the 2 foot setback of the extended
11. deck belonging to 83 Overlook right here. This
12. will give the neighbor more space and more open
13. views.
14. Let's take a look at our future or
15. proposed garage rendering. As you can see,
16. this garage will only have one story with a
17. gently sloping roof right here and is screened
18. by an existing 6 foot high white fence with
19. several mature trees between the two neighbors,
20. and also a potential fence with gate and
21. matching siding with the main house. If you
22. look at that, this garage will not be that
23. noticeable from 83 Overlook and other
24. neighbors.
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1. We also analyzed the properties in the
2. neighborhood. Here are some examples. If you
3. look at the top part, there's a corner property
4. which has a very similar design like us. They
5. have an attached garage in the rear yard which
6. has the setback less than 25 feet, and also
7. notice the front yard is right here, their
8. garage and the driveway is on the other side.
9. There are more corner properties with a rear
10. yard of less than 25 feet here. These are just
11. two examples. There are more examples in the
12. package. More examples regarding the corner
13. property with the garage on another side. If
14. you can see, this is the front yard and this is
15. the garage and the driveway on the side. Same
16. thing; front yard, driveway, and garage on the
17. other side. This is, again, a couple of
18. examples, and there are more examples in the
19. package.
20. Based on all the above analyses, this
21. redesign really aligns with the character of
22. the neighborhood very well, and it is not a
23. detriment to the character of the neighborhood.
24. Thirdly, the concern of not
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considering other alternatives for the location of the garage. So we put in thought. One alternative -- let's look at the site plan. One alternative is converting this family room back to the garage. The original garage was converted to a family room by a previous owner many years ago; therefore, the difficulty was not self-created. When I bought 7 Summit, this family room with this area out look, window exposures, cathedral ceiling, and wood beams was the main attraction to me. Converting this beautiful family room back to the garage, building a new family room at the location of the current patio right here sticking out like this, and then building a new patio back in the rear yard right here sticking out like this, that would probably cost roughly 150K to 200K as per expert advice. Not only that, it will also be less elegant in terms of massing of the house and the shape of the rear yard, as you already saw. Therefore, this is absolutely not an option to us. Another alternative is to add a detached garage to the northeast corner of the property.

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be better than nearly 11 feet from the front yard with greenery? Do you really think this alternative would be more pleasant than the current design? Lastly, a few other concerns are really irrelevant to this application. Some neighbors electing not to use the garage for vehicles is their personal choice. For us, an attached two car garage is a necessity, not at luxury, because we have experienced the inconvenience and exposed to unsafe conditions during the rainy or snowy weather, especially when my elderly parents visit every year. Potential solar panel installation is also irrelevant. We may elect to install or not install it based on further expert analysis from solar companies. That said, a solar system is not detrimental to the environment, but, in fact, it's beneficial.

As a final summary, we would like the Zoning Board to kindly interpret this corner property, the rear yard as the second side yard, due to the nature of the corner property, so that only a 9 foot setback is required. We

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would also like the neighbors to kindly think about win/win situation and show empathy and mutual understanding. Some neighbors went through the variance before or maybe will do it in the future as well. The proposed variance has no safety concerns, causes no undesirable change to the character of the neighborhood, is not detrimental to the nearby properties, and imposes no adverse effect or impact on the physical or environmental conditions in the neighborhood.

Let's take a final look at this beautifully designed attached garage. Also, imagine the front yard is now covered with full lawn. Look at how beautiful this garage will be. How can that be a detriment to the character of the neighborhood, and also how can that be an eyesore when they are being screened by beautiful greenery and white fencing?

Thank you so much for your time and consideration.

THE CHAIRMAN: Thank you for your submission and resubmission. The public meeting is still open on this, but before the

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by the property line, that entrance area to the proposed driveway is significantly reduced.

11 Added on top of that, right across the street is my driveway. Pulling cars out and parking where they're supposed to be, quite frankly, limits the area. If a car is parked here, there's no way if he's coming down this side of Overlook, he could make a turn into that thing.

10 There's not room there. When he says that he's is talked to the police department, with all due respect to the Eastchester Town Police, that is really a safety concern. It is hard enough getting into my driveway coming up the right-hand turn or a left-hand turn when there's cars parked on that street, and I have a double wide driveway.

A more accurate picture of the whole area is that his proposal of his building comes out this far. It's nice in a schematic in a proposed drawing, but in reality what he's proposing is blocking off that whole area right here, 9 feet from the end of the house all the way to 9 feet from the property line, and then putting solar panels on a one story high

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the neighbors. No notice of modifications were ever sent to the neighbors. On hearing what has been proposed by the owner of the house, nothing really has changed when you come to look at it. With all due respect to who he has talked to in the town and the Building Department and the Police Department, things are not what they seem to be. They don't live in that neighborhood.

One is, if I could put it up, this is a picture of where the proposed --

THE CHAIRMAN: Can you take the microphone. Thank you. We'll need a full record of what's said today, so please take that with you.

MR. VITI: This is actually the area where the proposed entrance to the garage is going to be. The garage is going to be, according to how he has it laid out, right there. This is accurate picture of the house 83 Overlook and the backyard. The owner of 83 Overlook is here to talk about the view that is going to be blocked, but this is what concerns me the most. (Indicating.) If you park a car

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consider denying the proposal. Thank you.
THE CHAIRMAN: Thank you. Is there anyone else who would like to be heard on this application from the public?
(No comments.)
THE CHAIRMAN: Seeing no one else, I make a motion at this time to close the public hearing on this matter; is there a second to my motion?
MR. DE MARCO: Second.
THE CHAIRMAN: Mr. DeMarco. All in favor.
(All aye.)
THE CHAIRMAN: Would the applicant like to reply to any of the commentary that was made during the public hearing? Please come forward and reply.
MR. JIN: Thank you, board members.
In response to our neighbors' concerns, again, we respect your opinions and definitely we will consider these feedbacks.
First, the neighbor was talking about the tree blocking the driveway. We will eventually remove that tree. Also, that

someone else like to be heard?
Come up, please, and state your name and address for the record.
MR. COLACICCO: My name is James Colacicco. I live at 83 Overlook.
My concern is that I live right next door to the proposed structure that he wants to put the driveway in and the garage. As I stated last time, I think it's going to be an eyesore. Like John said, the reflection of the solar panels, the structure. Right now I look out and it's nothing but air. He's going to put this big structure. I have two little kids that are always playing in the yard and everything, he's going to be backing out of the driveway. I don't think it's a good idea.
Where I live, it just seems like it's going to be too tight to everything that he's -- my house is right here and he wants to put it right here. I don't know how the variance is going to work, but it just looks like it's not going to be fit right, and it's going to be too close to my fence. I just don't agree to it. I would appreciate you guys

rendering is accurately done by the architect.
All the dimensions are accurately done. The utility pole to the left side is not 9 feet, it's about 7.5 feet, which leaves the driveway -- the driveway curb cut is about 13 feet. 13 feet usually is a very generous width. If you can look in the neighborhood, there's around 10 feet or 11 feet driveway curb cut.
Neighbor is also talking about opposite street. In fact, from those super area shot, you'll see many neighbors has -- you can easily find some from Waverly Street, you see there's a cross street, there's driveways opposite each other, you can find several of them there. Also, regarding the Z pattern, again, we already demonstrate our example previously. There is our neighbor doing exactly like we do, right, the attached garage in the rear yard.
Also, neighbor was talking about we have no modification. In fact, we did a lot of modification. We removed the entire existing driveway. We reduced the impervious area

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significantly. So that's huge.
Also, they were talking about putting
it in the back to the backyard. Again, I
already illustrated in the presentation because
it will be too close to the other three
neighbors. It would not be a good situation
for them.

Putting the family room back to the
garage, again, massing is the issue. Think
about how awkward this will be. The family
room will be sticking out like this, and then
the deck or the patio will be sticking out like
this. Literally, this rear yard is not really
usable because now you have a small piece here,
you have a small piece here, it doesn't look
good at all. It's not good character of the
neighborhood.

Also, neighbor talking about eyesore.
As I said, in this rendering, this rendering is
accurately done by the architect with all the
dimensions. The trees are the current
trees. I will basically screen the garage
right here. I'm not sure how the neighbor can
see through those trees to this garage. With

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the fence itself already existing, I really
don't believe it's an eyesore.

When neighbor talking about space is
too tight here between the two neighbors and
also when parking the car here is too close,
this could be found in many, many cases in the
neighborhood, right. If we look at the super
aerial view, you will see the neighbors have
two parking driveways next to each other, or if
you park car right here or right here, any
driveway has this situation. You can't avoid

That's all I want to say. Thank you
very much.

THE CHAIRMAN: Thank you. So at this
time we usually reserve time for the Board to
ask any other questions they may have or make
comments, but this may be a good time, just as
a reminder, because we frequently hear
commentary here that is along the lines of, you
know, if the applicant would just stay within
the law and do what is as of right. We're
really a quasi judicial body and we hear
applications that people are asking for things

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John Iannacito, I'm an architect, and I'm representing Mr. DeCairano, the owner of the subject property.

We are requesting an area variance to legalize the existing enclosed front porch, which is highlighted on the survey here. Mr. DeCairano purchased this property in 2016, and then received a violation for the non-conforming enclosed porch in 2018 after starting work on the first floor with some interior alterations. The existing front porch was approved and constructed with permits over 50 years ago, and then was later enclosed by the previous owner without the proper permits.

The existing enclosed porch is non-conforming with respect to both the front and side yard setback, and the legalization will require two area variances. The first is for a front yard setback where the existing is 14.4 feet and the required is 30 feet, a deficiency of 15.6 feet. The second variance is for the side yard setback, where the existing is 4.3 feet and the required is 8 feet or a deficiency of 3.7 feet.

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Having said that, I make a motion to open this matter to the public for a public hearing; is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

(All aye.)

THE CHAIRMAN: I'll wait a couple of seconds because I'm obligated, but seeing that there is no one sitting in the audience, I'll make a motion to close this matter to the public for the public hearing; is there a second to my motion?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)

THE CHAIRMAN: To the Board. Mr. Cahalin?

MR. CAHALIN: Still nothing.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No.

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THE CHAIRMAN: Mr. DeMarco?
MR. DE MARCO: No.
THE CHAIRMAN: You met the test as far as I'm concerned, Mr. Iannacito. I have nothing further. I will make a motion to adjourn this for resolution at the next meeting; is there a second?
MR. MILLER: Second.
THE CHAIRMAN: Mr. Miller. All in favor.
(All aye.)
MR. IANNACITO: Thank you.
THE CHAIRMAN: Last item on the calendar, 9, this is 108 Brook Street.
MR. IANNACITO: Good evening, again. My name is John Iannacito, I'm an architect, and I'm representing Maiorano Holdings, the owners of the subject property. So this property is located within an RB zone, and the existing structure is a mixed use structure with office space on the first floor and two dwelling units on the second floor. The proposed scope of work for this project is changing the existing first floor.

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office space to a three bedroom dwelling unit; therefore, changing the building use from a mixed use to a multifamily use. So the change in use will result in a reclassification of the property from an RB zoning designation to an M-700 zoning designation. This reclassification will require several area variances, including a minimum lot size, a rear yard setback, both side yard setbacks, the number of off street parking spaces, the parking lot aisle width, totally impervious surface coverage, and various landscape buffer requirements. All of these variances are required as a result of the change to the zoning designation. There are no proposed physical changes to the size of the structure or the site. The property will remain as it has been for the past 34 years.
In addition, the change in use will reduce the daily traffic flow from the site. It will also reduce the degree of parking non-conformance, where today the variance that's in place was for 11 parking spaces and the new variance will be for 3 parking spaces.

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My understanding is now, that the person that actually purchased the property is having difficulty leasing out that office space and feels that a residential unit would be more appropriate, but in both cases it was area variances.

What you approved on September 11th of 2018, was a number of variances to allow that conversion from a two family home with a professional office to a mixed use with a commercial office space. You approved a number of variances very similar to these. Those now no longer apply since that use is not what's being proposed. So this is just a new series of variances that are being proposed.

THE CHAIRMAN: Thank you, Mrs. Uhle. Mr. Cahalin, any questions or comments of the applicant?

MR. CAHALIN: None.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Yes, actually one comment.

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I get the whole business about turning it into a three family house. I guess what I can't get my arms around is, your client, the reason that he's coming here is that he said he's having difficulty renting out the first floor for office space. I think he just bought it a couple of months ago, so I don't understand how he just bought it two or three months ago and then he's having trouble renting out something so quickly and coming to us for relief.

MR. IANNACITO: I'm not sure when he purchased it. He does own the property right next door also, where the bagel shop is, and he has a residence on the second floor of that space also. I just think as an office space he doesn't feel he can -- he hasn't gotten any interest in the space at all. There is a large office building right across the street which also has empty space. He feels converting it to a dwelling unit would be a lot easier for him to find a tenant.

THE CHAIRMAN: Mr. Nurzia, anything else?

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MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)

(MEETING ADJOURNED.)

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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 3rd day of October, 2019.

DINA M. MORGAN
Court Reporter

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