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STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF EASTCHESTER
..... X

TRANSCRIPT OF
THE TOWN OF EASTCHESTER
ZONING BOARD OF APPEALS MEETING
MAY 12, 2015

..... X

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

B E F O R E:

ALAN PILLA, CHAIRMAN
JOSEPH MILLER, MEMBER
MICHAEL CAHALIN, MEMBER
PETER NURZIA, MEMBER

P R E S E N T:

ROBERT TUDISCO, DEPUTY TOWN ATTORNEY
JAY KING, BUILDING INSPECTOR
GARRETT BURGER, ASSISTANT PLANNER

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

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EASTCHESTER ZBA - 5/12/15

THE CHAIRMAN: I would like to welcome the public to the Eastchester Zoning Board of Appeals meeting for May 12th, 2015, and ask everyone to please rise for the Pledge of Allegiance.

(Whereupon the Pledge of Allegiance was said.)

THE CHAIRMAN: Before I call the roll, I would just like to remind our participants and the viewing public that in conjunction with -- which has now become standard policy in the Town of Eastchester and other towns as well -- that applications are predicated upon the condition that they're not decided on the first call or their first appearance. So any application that is on for the first time tonight will not be decided.

Also, as a reminder for those who are considering an application, we do not meet in July and August. So the next meeting in June will be our last meeting for the summer.

Okay. I will now call the roll, and I will ask if you are ready to proceed. Additionally, the first two items under old

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business are on for resolution, and because we
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3 have a four member board those applicants have
4 the right to have the matter adjourned, because
5 in a vote it would require a three-one vote for
6 an approval, a two-two would be a denial on a
7 four member board.

8 So the first item is 13-36, 504 New
9 Rochelle Road. Is the applicant here? Are you
10 ready to proceed? Okay. Thank you.

11 Item 2, 15-18, 102 White Road. Is the
12 applicant here? Okay. We will be proceeding
13 with that resolution as well.

14 Under old business, 15-08, 185
15 Summerfield Street, that matter has been
16 adjourned on request of the applicant.

17 Under new business, 15-22, 171 Brook
18 Street, is the applicant here? Okay. I'm sure
19 by the time we do what we're doing your
20 attorney will be here.

21 So before we go on to the actual meat
22 and potatoes of the agenda, is there a motion
23 it approve the minutes from the April 14, 2015
24 meeting?

25 MR. CAHALIN: So moved.

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1 EASTCHESTER ZBA - 5/12/15
2 THE CHAIRMAN: By Mr. Cahalin. Is
3 there a second?

4 MR. MILLER: Second.
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5 THE CHAIRMAN: By Mr. Miller. All in
6 favor.
7 (All aye.)
8 THE CHAIRMAN: Minutes have been
9 approved. Okay. So Application 13-36, this is
10 504 New Rochelle Road, which is seeking an area
11 variance to convert and expand an existing
12 service station for use as a convenience store.
13 I have in my hand the resolution, and I make a
14 motion to --
15 MR. BURGER: Alan, excuse me, first we
16 need to do the SEQRA negative declaration or
17 positive. We never did that. It's in the
18 meeting notes.
19 THE CHAIRMAN: Thank you, Garrett.
20 MR. BURGER: You're welcome.
21 THE CHAIRMAN: How dare you be new and
22 right. That's not correct. Okay. Yes, I
23 don't have it on my agenda, but if there's a
24 negative declaration -- thank you, sir. Okay.
25 I'm making a motion it adopt a negative

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2 declaration for Application 13-36. Is there a
3 second?
4 MR. CAHALIN: Second.
5 THE CHAIRMAN: Second by Mr. Cahalin.
6 All in favor.

7 (All aye.)
8 THE CHAIRMAN: Now, 13-36, 504 New
9 Rochelle Road, as I mentioned is an area
10 variance to convert and expand an existing
11 service station. I make a motion it adopt the
12 resolution approving the application. Is there
13 a second?
14 MR. NURZIA: Second.
15 THE CHAIRMAN: By Mr. Nurzia. I'll
16 take roll call. Mr. Cahalin.
17 MR. CAHALIN: Yes.
18 THE CHAIRMAN: Mr. Miller.
19 MR. MILLER: Yes.
20 THE CHAIRMAN: Mr. Nurzia.
21 MR. NURZIA: Yes.
22 THE CHAIRMAN: And I vote yes. The
23 application has been approved four to nothing.
24 Application 15-18, 102 White Road.
25 This is an application seeking an area variance

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2 to permit a proposed driveway with a right side
3 yard setback of 1.67 feet where a minimum of 3
4 feet is required, which is deficiency of
5 1.33 feet or 44.4 percent. I have in my hand a
6 resolution, and I make a motion it adopt this
7 resolution approving the application. Is there
8 a second?

9 MR. MILLER: Second.
10 THE CHAIRMAN: By Mr. Miller. I'll
11 take the roll. Mr. Nurzia.
12 MR. NURZIA: Yes.
13 THE CHAIRMAN: Mr. Miller.
14 MR. MILLER: Yes.
15 THE CHAIRMAN: Mr. Cahalin.
16 MR. CAHALIN: Yes.
17 THE CHAIRMAN: And I vote yes. The
18 application has been approved four to nothing.
19 As I mentioned, 185 Summerfield has
20 been adjourned, and we're on to 171 Brook
21 Street, and we will, as they used to do in
22 college basketball, we're going to a four
23 corners stall delay to pass the ball around a
24 little bit. Maybe we should take a two minute
25 recess?

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2 MR. MILLER: Mr. Chairman, could
3 possibly Garrett explain why the application is
4 being reheard?
5 MR. BURGER: Sure.
6 MR. TUDISCO: Mr. Chairman and the
7 Board, an application by counsel was sent in by
8 letter dated April 20th requesting a rehearing
9 of the application that was before you, which
10 was denied. I have done some research on this
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11 issue and for the applicant, whoever is present
12 here tonight, and also for those watching at
13 home, I just want to advise the Zoning Board
14 that under the law any application has the
15 right to request a rehearing of the issue and
16 there is a two tier process in order for that
17 to take place under the New York State Town Law
18 267-A Subdivision 12. What is required is an
19 application by the applicant either with new
20 information or a new proposal or to rehear the
21 application that had previously been denied.
22 What would be required upon that application
23 would be a unanimous vote of the Board of the
24 members that are currently present, which means
25 the four of you. It would have to be a

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2 unanimous decision to rehear the application,
3 and then assuming if you did not unanimously
4 agree to rehear the application for whatever
5 reason the applicant has brought forward, then
6 it would end there. In the event that the
7 Board unanimously agrees to or approves a
8 motion to rehear the application, the applicant
9 would provide whatever information they feel
10 was not provided or not provided thoroughly,
11 then it would require a unanimous vote of the
12 board members currently present in order to

13 approve the application.

14 So that is what the law is, and the
15 applicant has the ability to make that
16 application before you.

17 MR. MILLER: If I'm understanding
18 correctly, the first hurdle or step that has to
19 be taken is we have to essentially grant the
20 reargument, for lack of a better term or --

21 MR. TUDISCO: Rehearing.

22 MR. MILLER: Rehearing.

23 MR. TUDISCO: Yes, that is correct, by
24 unanimous decision, and then there would be a
25 second level on the actual merits of the

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2 application or the rehearing, and that would
3 have to be unanimous as well.

4 THE CHAIRMAN: Anything further from
5 the Board? Mr. Nurzia?

6 MR. NURZIA: No.

7 THE CHAIRMAN: Mr. Cahalin?

8 MR. CAHALIN: Excuse me.

9 THE CHAIRMAN: Anything further on
10 this question from our legal counsel?

11 MR. CAHALIN: No, it's quite clear.

12 THE CHAIRMAN: Okay. Having now
13 understood, and thank you, Mr. Tudi sco, for the
14 legal explanation, we'll ask the applicant to

15 step forth. Seeing that this is, at least for
16 the Chairman, a new procedural method that I
17 haven't come across before, I would ask,
18 perhaps, if you can flesh out for the Board why
19 they should rehear it, because that's the
20 threshold issue, whether they will rehear it.

21 MR. SALERNO: Hi. Rocco Salerno,
22 attorney for the applicant, GBG Reality, which
23 owns the property located the 171 Brook Street.
24 The property was previously improved by a two
25 family residence. By reason of previous

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2 variances granted by this Board, the first
3 floor of the premises was converted to
4 professional office space, which is now
5 occupied by a periodontic practice and a law
6 office. The second floor remains a residential
7 dwelling unit.

8 In December of 2014, the applicant
9 sought a further parking variance in connection
10 with its proposal to convert 468 square feet of
11 the basement to accommodate additional
12 professional office space with an A. D. A.
13 compliant bathroom and a handi cap ramp along
14 the west side of the structure. The proposed
15 alterations would comply in all respects with
16 the building and zoning codes; however, an

17 additional parking variance would be required.
18 A public hearing was held on
19 January 13th, 2015, and the application was
20 denied by a majority vote of this Board.
21 Although the members of the Board that did not
22 approve the application did not state their
23 reasons, my review of the file leads me to
24 believe that the applicant did not submit
25 sufficient independent proof that the lack of

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2 additional on-site parking required by the code
3 will not produce an undesirable change in the
4 character of the neighborhood or a detriment to
5 nearby properties.
6 The applicant now simply seeks an
7 opportunity to resubmit its application and
8 supplement its previous submission with a
9 report by a professional engineer or planning
10 consultant to include an in depth analysis of
11 traffic and parking in the vicinity of the
12 property. As Mr. Tudi sco stated, this hearing
13 is specifically permitted pursuant to Section
14 267A of the town law, and we are not seeking
15 approval of the application this evening, just
16 the opportunity to resubmit with additional
17 information regarding the parking issue.

18 MR. TUDI SCO: One other thing I just
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19 wanted to mention in terms of procedure:
20 Assuming the Board votes to rehear the
21 application, you would be bound as if it would
22 be -- you would not be bound by what has
23 happened in the past, you would be hearing it
24 as a new application. You could take into
25 consideration what's happened in the past, but

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2 if based upon expert information that the
3 applicant would introduce, the Board still has
4 the ability to ask for a town expert to review
5 that and whatever else.

6 The other component that I wanted to
7 address for the Board is if the Board
8 unanimously votes to rehear and permit the
9 applicant to resubmit their application, the
10 notice requirements that apply for an initial
11 application also would apply. They would still
12 have to re-notice the public hearing for the
13 rehearing, if you do grant that request.

14 THE CHAIRMAN: Thank you, Mr. Tudi sco.

15 MR. SALERNO: I concur. It would be
16 as if this were an entirely brand new hearing.
17 We start from scratch. The reason we're asking
18 for the rehearing is, again, I don't think the
19 applicant produced sufficient independent proof
20 of the parking situation in the vicinity. The

21 only variance requested was a three car parking
22 variance.

23 THE CHAIRMAN: Thank you, Mr. Salerno.
24 Okay. Comments from the Board. Mr. Cahalin,
25 do you have any comments, questions?

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2 MR. CAHALIN: No.

3 THE CHAIRMAN: Mr. Miller?

4 MR. MILLER: Just the new information
5 that wasn't submitted, is there any reason why
6 it wasn't submitted last time?

7 MR. SALERNO: The applicant was not
8 aware that it was required. The applicant does
9 not have the experience that I have, and
10 reviewing the record I believe that the Board
11 needed some independent analysis of the parking
12 rather than the applicant's subjective analysis
13 of the parking situation.

14 THE CHAIRMAN: Mr. Nurzia?

15 MR. NURZIA: No, no questions or
16 comments.

17 THE CHAIRMAN: Okay. Based upon the
18 presentation, I have nothing further other than
19 to make a motion to vote on whether
20 procedurally we'll rehear this application. So
21 I make a motion. Is there a second?

22 MR. NURZIA: Second.

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23 THE CHAIRMAN: By Mr. Nurzia. I'll
24 take the roll. Mr. Nurzia.
25 MR. NURZIA: Yes.

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1 EASTCHESTER ZBA - 5/12/15
2 THE CHAIRMAN: Mr. Cahalin.
3 MR. CAHALIN: No.
4 THE CHAIRMAN: Mr. Miller.
5 MR. MILLER: No.
6 THE CHAIRMAN: I vote yes. It's
7 two-two. It's denied.
8 MR. SALERNO: Thank you.
9 THE CHAIRMAN: Thank you. We have
10 nothing left on the agenda, so I'll make a
11 motion to adjourn our meeting for this evening.
12 Is there a second?
13 MR. CAHALIN: Second.
14 THE CHAIRMAN: By Mr. Cahalin. All in
15 favor.
16 (All aye.)
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18 (MEETING ADJOURNED.)

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EASTCHESTER ZBA - 5/12/15
C E R T I F I C A T I O N

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) Ss.

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 2nd day of June, 2015.

DINA M. MORGAN
Court Reporter

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