STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF EASTCHESTER

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

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

BEFORE:

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

PRESENT:

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

DINA M. MORGAN, REPORTER
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
have a four member board those applicants have
the right to have the matter adjourned, because
in a vote it would require a three-one vote for
an approval, a two-two would be a denial on a
four member board.

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

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

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

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

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

MR. CAHALIN: So moved.
THE CHAIRMAN: By Mr. Miller. All in favor.

(All aye.)

THE CHAIRMAN: Minutes have been approved. Okay. So Application 13-36, this is 504 New Rochelle Road, which is seeking an area variance to convert and expand an existing service station for use as a convenience store. I have in my hand the resolution, and I make a motion to --

MR. BURGER: Alan, excuse me, first we need to do the SEQRA negative declaration or positive. We never did that. It's in the meeting notes.

THE CHAIRMAN: Thank you, Garrett.

MR. BURGER: You're welcome.

THE CHAIRMAN: How dare you be new and right. That's not correct. Okay. Yes, I don't have it on my agenda, but if there's a negative declaration -- thank you, sir. Okay. I'm making a motion it adopt a negative declaration for Application 13-36. Is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: Second by Mr. Cahalin. All in favor.
(All aye.)

THE CHAIRMAN: Now, 13-36, 504 New Rochelle Road, as I mentioned is an area variance to convert and expand an existing service station. I make a motion it adopt the resolution approving the application. Is there a second?

MR. NURZIA: Second.

THE CHAIRMAN: By Mr. Nurzia. I'll take roll call. Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

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

Application 15-18, 102 White Road.

This is an application seeking an area variance to permit a proposed driveway with a right side yard setback of 1.67 feet where a minimum of 3 feet is required, which is deficiency of 1.33 feet or 44.4 percent. I have in my hand a resolution, and I make a motion it adopt this resolution approving the application. Is there a second?
MR. MILLER: Second.

THE CHAIRMAN: By Mr. Miller, I'll take the roll. Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Cahalin.

MR. CAHALIN: Yes.

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

As I mentioned, 185 Summerfield has been adjourned, and we're on to 171 Brook Street, and we will, as they used to do in college basketball, we're going to a four corners stall delay to pass the ball around a little bit. Maybe we should take a two minute recess?

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issue and for the applicant, whoever is present here tonight, and also for those watching at home, I just want to advise the Zoning Board that under the law any application has the right to request a rehearing of the issue and there is a two tier process in order for that to take place under the New York State Town Law 267-A Subdivision 12. What is required is an application by the applicant either with new information or a new proposal or to rehear the application that had previously been denied. What would be required upon that application would be a unanimous vote of the Board of the members that are currently present, which means the four of you. It would have to be a unanimous decision to rehear the application, and then assuming if you did not unanimously agree to rehear the application for whatever reason the applicant has brought forward, then it would end there. In the event that the Board unanimously agrees to or approves a motion to rehear the application, the applicant would provide whatever information they feel was not provided or not provided thoroughly, then it would require a unanimous vote of the board members currently present in order to
approve the application.

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

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

MR. TUDISCO: Rehearing.

MR. MILLER: Rehearing.

MR. TUDISCO: Yes, that is correct, by unanimous decision, and then there would be a second level on the actual merits of the application or the rehearing, and that would have to be unanimous as well.

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

MR. NURZIA: No.

THE CHAIRMAN: Mr. Cahalin?

MR. CAHALIN: Excuse me.

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

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

THE CHAIRMAN: Okay. Having now understood, and thank you, Mr. Tudisco, for the legal explanation, we'll ask the applicant to
step forth. Seeing that this is, at least for
the Chairman, a new procedural method that I
haven't come across before, I would ask,
perhaps, if you can flesh out for the Board why
they should rehear it, because that's the
threshold issue, whether they will rehear it.

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

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

In December of 2014, the applicant
sought a further parking variance in connection
with its proposal to convert 468 square feet of
the basement to accommodate additional
professional office space with an A.D.A.
compliant bathroom and a handicap ramp along
the west side of the structure. The proposed
alterations would comply in all respects with
the building and zoning codes; however, an
additional parking variance would be required.

A public hearing was held on January 13th, 2015, and the application was denied by a majority vote of this Board. Although the members of the Board that did not approve the application did not state their reasons, my review of the file leads me to believe that the applicant did not submit sufficient independent proof that the lack of additional on-site parking required by the code will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The applicant now simply seeks an opportunity to resubmit its application and supplement its previous submission with a report by a professional engineer or planning consultant to include an in depth analysis of traffic and parking in the vicinity of the property. As Mr. Tudisco stated, this hearing is specifically permitted pursuant to Section 267A of the town law, and we are not seeking approval of the application this evening, just the opportunity to resubmit with additional information regarding the parking issue.

MR. TUDISCO: One other thing I just...
wanted to mention in terms of procedure:

Assuming the Board votes to rehear the application, you would be bound as if it would be -- you would not be bound by what has happened in the past, you would be hearing it as a new application. You could take into consideration what's happened in the past, but

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THE CHAIRMAN: Thank you, Mr. Tudisco.

THE CHAIRMAN: Thank you, Mr. Tudisco.

MR. SALERNO: I concur. It would be as if this were an entirely brand new hearing.

We start from scratch. The reason we're asking for the rehearing is, again, I don't think the applicant produced sufficient independent proof of the parking situation in the vicinity. The
only variance requested was a three car parking variance.

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

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MR. CAHALIN: No.

THE CHAIRMAN: Mr. Miller?

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

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

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No, no questions or comments.

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

MR. NURZIA: Second.
THE CHAIRMAN: By Mr. Nurzia. I'll take the roll. Mr. Nurzia.

MR. NURZIA: Yes.

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THE CHAIRMAN: Mr. Cahalin.

MR. CAHALIN: No.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: No.


MR. SALERNO: Thank you.

THE CHAIRMAN: Thank you. We have nothing left on the agenda, so I'll make a motion to adjourn our meeting for this evening. Is there a second?

MR. CAHALIN: Second.

THE CHAIRMAN: By Mr. Cahalin. All in favor.

(All aye.)

(MEETING ADJOURNED.)

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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 2nd day of June, 2015.

DINA M. MORGAN
Court Reporter