

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

TRANSCRIPT OF
THE ZONING BOARD OF APPEALS MEETING
JUNE 9, 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
MARK DE MARCO, MEMBER
JOSEPH MILLER, MEMBER
MICHAEL CAHALIN, MEMBER
PETER NURZIA, MEMBER

P R E S E N T:

MARGARET UHLE, DIRECTOR OF PLANNING
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY
JAY KING, BUILDING INSPECTOR

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

DINA M. MORGAN, REPORTER

♀

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: Good evening, and welcome to the Town of Eastchester Zoning Board of Appeals meeting for the June 9th, 2015 meeting that is. Let's call the roll.

Before we do that, let's start the meeting with the Pledge of Allegiance.

(Whereupon the Pledge of Allegiance was said.)

THE CHAIRMAN: Okay. Actually, before we call the roll, I usually take this opportunity in the meeting to remind those here and the viewing public that as a condition to the application, and just printed as a term on the application, that no applications that are heard on the first time are decided upon, and also, we print our calendar at the beginning of the calendar year, and tonight is the last meeting before the summer break, so the next meeting after this will be September.

Okay. I'll call the roll, and the applicant I would like you to let me know that you're here and whether you're going to proceed.

DINA M. MORGAN, REPORTER

♀

1
2

3 which is 185 Summerfield Street. Ready to
4 proceed? Great.
5 Under new business, 15-34, that's 22
6 Maple Street. Applicant ready to proceed?
7 Okay.
8 15-35, that's 56 Alkamont Avenue.
9 Ready to proceed? Okay.
10 15-38, 509 White Plains Road.
11 MR. CAHALIN: 569.
12 THE CHAIRMAN: 569. Excuse me. Thank
13 you, Michael.
14 MR. DE MARCO: There's a hand up.
15 THE CHAIRMAN: Thank you. I'm glad I
16 got the address right that time. Are you ready
17 to proceed? Okay.
18 15-41, 22 Parkway Circle. Ready to
19 proceed? Great.
20 Okay. Before we proceed, there's a
21 matter of approving the minutes from the
22 May 12th, 2015 meeting. Is there a motion to
23 approve those minutes?
24 MR. CAHALIN: So moved.
25 THE CHAIRMAN: By Mr. Cahalin. Is

DI NA M. MORGAN, REPORTER

♀

4

1 EASTCHESTER ZBA - 6/9/15
2 there a second?
3 MR. DE MARCO: Second.
4 THE CHAIRMAN: By Mr. DeMarco. All in
 Page 3

5 favor.
6 (All aye.)
7 THE CHAIRMAN: Minutes have been
8 approved.
9 On to old business with the public
10 hearing continuing, 15-08, 185 Summerfield
11 Street.
12 MR. DIBBINI: Good evening to the
13 Board. Again, my name is James Dibbini on
14 behalf of the applicant. As you know, we were
15 here about two months ago with our initial
16 presentation with respect to my client's
17 request to place a small Italian bistro at 185
18 Summerfield. Right now the first second floor
19 is vacant, the second floor is occupied by a
20 small office.
21 The plans to my left have been
22 slightly modified to accommodate placing the
23 carting -- the waste carting container inside
24 the most left garage along with a bicycle rack.
25 There's been some advancements, some good news

DINA M. MORGAN, REPORTER

♀

5

1 EASTCHESTER ZBA - 6/9/15
2 since last time we were here. My client has
3 been able to secure four permanent parking
4 spaces; two on Summerfield lot -- I'm sorry,
5 two on Summerfield, which is almost directly
6 across from my client's property right now, and
Page 4

7 also secure two additional parking spaces via
8 permit with the village at the north end lot
9 that's near the CVS store.

10 So we're here before the Board today
11 to present that. Also, I understand through
12 the Maser Consulting consultant's letter dated
13 June 4th, which I believe you're all in
14 possession of, also provides I think favorable
15 news for my client, the applicant, and that is
16 he indicates -- that is Maser Consulting P.A.,
17 Philip J. Grealy indicates on the second page,
18 after going through some analysis -- I believe
19 the Board has gone through it -- indicates that
20 "We generally agree that there is parking in
21 the overall area to accommodate the parking
22 needs of the proposed restaurant."
23 Furthermore, he indicates that "We believe the
24 parking needs for the proposed restaurant can
25 be accommodated in the area of the development

DI NA M. MORGAN, REPORTER

♀

6

1 EASTCHESTER ZBA - 6/9/15
2 and that there will not be a significant
3 traffic impact in the area." I think these are
4 two very positive, positive statements that
5 have been stated in the report, which supports
6 our client's application to have this variance.

7 I do want to also point out, just to
8 go through the numbers, initially when we came
Page 5

9 before you it was clear that we needed 17
10 parking spaces and we had four, so that brought
11 down the variance to 13, but with two permit
12 parking spaces on Summerfield and two permit
13 parking spaces on the north end lot, we're
14 really down to nine. When you compare that
15 against the old variance that the building
16 already had, which was a prior legal
17 non-conforming use, they had a variance for 11
18 parking spaces. So we're only requesting one
19 for nine in effect since we've got the four
20 parking spaces, permitted parking spaces, which
21 we'll continue to maintain throughout the
22 existence of the operation of the business and
23 the CO. So I think the Board sees that there
24 is a reduction in the variance in that respect,
25 and we're asking the Board to approve that. Of

DINA M. MORGAN, REPORTER

♀

7

1 EASTCHESTER ZBA - 6/9/15
2 course if you have any questions, we also have
3 James Garofalo, the consultant who prepared the
4 parking analysis, and also has the sheet that
5 demonstrates all of the various parking lots
6 throughout the immediate location.

7 So if there are any questions from the
8 Board, we'll be happy to answer them.

9 THE CHAIRMAN: Yes. Ms. Uhle, as a
10 matter of procedure, perhaps what we should do

11 is hear from Mr. Garofalo if he has anything to
12 supplement, add, or modify in the application,
13 and I would like to hear from our expert, Mr.
14 Grealy, because the public hearing is
15 continuing then I think it would be more
16 advantageous to the public for them to be able
17 to comment after all of that. All of this is a
18 matter of public record, but anything that is
19 supplemental I think they could comment on.

20 MS. UHLE: I think that makes sense.

21 THE CHAIRMAN: Then let's proceed with
22 Mr. Garofalo, please.

23 MR. GAROFALO: My name is James
24 Garofalo. I've been working with Tim Miller
25 Associates for about 25 years. I want to talk

DINA M. MORGAN, REPORTER

♀

8

1 EASTCHESTER ZBA - 6/9/15
2 a little bit here about the parking study,
3 which was basically done on Friday, March 27th
4 and the 28th. There are two main aspects I'm
5 going to talk about; first is the employee
6 parking and then there's the customer parking.
7 There are four main lots in the area. There is
8 the Brook Street/Summerfield Street lot, which
9 is closest to the site; there's the Dunwoodie
10 Street lot; there's the north end lot; and then
11 there's the Ackerman lot. This lot, there were
12 times when the long term parking, which is what

060915ZB.txt

13 employees need, was full, so we didn't really
14 look at that in terms of what we need for this
15 site for the employees. It's also the furthest
16 or the most difficult as far as customers to
17 reach, so it won't be much of an impact on the
18 customers. Basically what we looked at then
19 for the employees was this lot, this lot, and
20 this lot. Excuse me, this was not for the
21 employees, that was for the customers. In both
22 the north end lot looking at just the metered
23 spot long term parking and the Dunwoodie lot,
24 which is all long term parking, either one of
25 these two lots in and of itself had enough

DINA M. MORGAN, REPORTER

♀

9

1 EASTCHESTER ZBA - 6/9/15
2 capacity to handle the employees for the
3 restaurant during the day.
4 As was mentioned, actually two permit
5 spots have been acquired in this permit area,
6 which is mostly about 50 percent CVS permitted
7 parking. Two opened up here, and this area
8 also has now been opened up to permit parking
9 from 8 a.m. to 6 p.m. So that's a period which
10 can handle the employee, customers. During the
11 day, the office employees will be parking on
12 site. They will be leaving before 6 p.m.,
13 which will allow the restaurant employees to
14 come in and park here. There is anticipated to

15 be four employees during the day, four in the
16 evening. So in terms of the evening, they only
17 need basically one other parking space, which
18 could easily be accommodated either here or
19 here.

20 So basically the way it's going to be
21 handled is during the day is two employees of
22 the restaurant will park here, two up here, and
23 the office will park over there. In the
24 evening, the office employees will leave,
25 employees for the restaurant will move into the

DINA M. MORGAN, REPORTER

†

10

1 EASTCHESTER ZBA - 6/9/15
2 office spaces. There may actually be a time
3 when there are more than four restaurant
4 employees there at any one time, because you
5 can't just leave and have no employees there,
6 there will be a transition period where you
7 could potentially have as many as eight, but
8 again, they would be handled both in the
9 on-street permit parking, the north end lot,
10 and the site with only needing one extra
11 employee parking.

12 In terms of the customer siting, this
13 circle is the 400 foot circle, which would be
14 approximately a 400 foot distance from the
15 site. Notice the Dunwoodie lot is outside
16 that, so it was not considered ever for the

17 customers to be parking down there, and looking
18 at the report for the senior residential
19 development that's going to be occurring on
20 Summerfield, there was not anticipated to be
21 any real overlap in demand in terms of parking.
22 So in terms of parking, that's not going to be
23 a problem. This Board looked at it, the Town
24 Board also looked at the Summerfield senior
25 parking and found that there was not going to

DINA M. MORGAN, REPORTER

♀

11

1 EASTCHESTER ZBA - 6/9/15
2 be a problem with that dealing with lot parking
3 or on-street parking. We don't see -- I don't
4 see any conflict here at all with that site and
5 this site.

6 This site there is currently -- when
7 the Fish Gourmet is open, they tend to use the
8 two spots right on their side of the road, plus
9 this portion of it is probably 90 percent
10 parked. What happens is during the day these
11 spots over here had been heavily utilized by
12 the auto body shop and the offices, so even
13 though they're now permit parking, even during
14 the day, a normal day, they wouldn't have been
15 available to the restaurant. Nevertheless,
16 within this 400 foot radius most of it between
17 the Summerfield and in the Summerfield/Brook
18 Street lot in that near parking there's almost

19 enough just for the restaurant itself. You add
20 the Brook Street onto that and you have more
21 than enough parking to handle the customers
22 with an easy walking distance to the
23 restaurant. So generally what's going to
24 happen when the Fish Gourmet is open, and
25 they're not open every day during the week

DI NA M. MORGAN, REPORTER

♀

12

1 EASTCHESTER ZBA - 6/9/15
2 during the day, they are during the evening,
3 but basically if you consider a nonstick pan
4 and you have a drop of water on it and you add
5 another drop, the bubble expands. That's
6 basically what's going to happen here is that
7 the area where there's a lot of parking, that
8 area is going to expand and it will be a
9 mixture between the two restaurants. So, yes,
10 some of the Fish Gourmet customers may have to
11 walk a little bit further, but there is clearly
12 enough parking in that area to handle the
13 customers for both restaurants.

14 THE CHAIRMAN: Thank you, Mr.
15 Garofalo. Before we move on to Mr. Grealy, I
16 ask the Board members if they have any
17 questions or comments; Mr. DeMarco?

18 MR. DE MARCO: No.

19 THE CHAIRMAN: Mr. Nurzia?

20 MR. NURZIA: No.

21 THE CHAIRMAN: Mr. Miller?
22 MR. MILLER: No.
23 THE CHAIRMAN: Mr. Cahalin?
24 MR. CAHALIN: I've got some.
25 THE CHAIRMAN: Fire away.

DINA M. MORGAN, REPORTER

‡

13

1 EASTCHESTER ZBA - 6/9/15
2 MR. CAHALIN: Directed to the
3 attorney. You stated that there was an
4 original variance for 11 spots.
5 MR. DIBBINI: That's my understanding.
6 MR. CAHALIN: When was that granted?
7 MR. DIBBINI: When?
8 MR. CAHALIN: When.
9 MR. DIBBINI: I'm not sure, but it was
10 under the prior ownership. That's when the
11 entire building was used as office space.
12 MR. CAHALIN: So the use is changing
13 and you had 11 spots, but that could have
14 been -- how long has it been an office?
15 MR. DIBBINI: I don't have an answer.
16 I could look into it and get back to you on it.
17 MS. UHLE: I just want to clarify
18 something. I don't think a variance was
19 granted. I think it's preexisting legal
20 non-conforming. There is a distinction between
21 the two.
22 MR. CAHALIN: But he said there was a
Page 12

23 variance.

24 MS. UHLE: I don't believe so. I

25 don't know whether you meant there was a

DINA M. MORGAN, REPORTER

♀

14

1 EASTCHESTER ZBA - 6/9/15

2 variance or whether you meant that the

3 deficiency in parking --

4 MR. DIBBINI: I meant to refer to it

5 as the deficiency was smaller.

6 MR. CAHALIN: We got to get our facts

7 right here. I would appreciate getting the

8 right information first before somebody gets up

9 and makes a statement. That's a misleading

10 statement to me. So we can continue. You're

11 going to accommodate 45 seats now as opposed to

12 39?

13 MR. DIBBINI: Correct, 45.

14 MR. CAHALIN: How many seats that does

15 the Fish Gourmet have, do we know?

16 MR. DIBBINI: 32. This gentleman, I

17 don't know who is, but he just --

18 MR. CAHALIN: 32 max. 70. So we have

19 70. So we now have 115 potential customers

20 coming into the area at the same time; am I

21 wrong? Right? But we still have the same

22 parking in the area. We haven't expanded any

23 spaces, but we're going to add 45 potential

24 customers, but we haven't grown the parking

25 lots at all. Does anybody see the point I'm

DINA M. MORGAN, REPORTER

♀

15

1 EASTCHESTER ZBA - 6/9/15
2 trying to make here?
3 MR. DE MARCO: No.
4 MR. CAHALIN: The parking hasn't
5 changed, and we're expanding getting more
6 customers trying to compete for the same area.
7 So if we were adding -- my point is, we haven't
8 added any spaces to the north end or none
9 significant at this point, but we're now going
10 to try to get a variance here so that we could
11 put a restaurant in that's going to have
12 instead of 70 we're going to have an additional
13 45 potential customers, right, at max. I
14 assume they'll both be open on Friday night,
15 and I assume they will both be open on Saturday
16 night, and I assume they'll both be open on
17 Sundays; right? So I don't know about lunch or
18 dinner during the week, I don't know what the
19 hours are supposed to be for either restaurant,
20 but to me we're putting a use in there or
21 they're asking us to approve a use, we haven't
22 created anything to accommodate the people.
23 THE CHAIRMAN: Well, Board Member
24 Cahalin, just one specific, which I was going
25 to remind the public when they spoke on it but

DINA M. MORGAN, REPORTER

16

♀

1 EASTCHESTER ZBA - 6/9/15
2 I might as well be specific about this now, the
3 use is as of right. So the fact that they want
4 to use it as a restaurant doesn't really affect
5 us, and of course it's a consideration when
6 you're considering the parking. The issue
7 really before the Board is the non-conforming
8 use and the adequacy of parking, and certainly
9 you're free to go in any line of inquiry when
10 you want, but I just want to make sure when the
11 public comments on this that the idea of
12 whether or not it's a good idea to put a
13 restaurant there is not really something we
14 should be considering. We should be
15 considering whether the parking needs for this
16 application and the variance that's being
17 requested is appropriate. So, anyway, I'm
18 sorry.

19 MR. CAHALIN: That's exactly my point.
20 You have an area in the north end that just got
21 a senior residence approved, and we have
22 existing businesses that if you go up there
23 shopping on a Saturday afternoon or a Saturday
24 morning, it's desperate to find parking, and
25 now we're going to put another -- they're

DINA M. MORGAN, REPORTER

1 EASTCHESTER ZBA - 6/9/15
2 asking us to approve a parking variance, which
3 I'm sure the restaurant will be fantastic, I'm
4 sure it will be, but I just don't know how much
5 more we can push into this area myself. I
6 mean, I don't get it, you know. I know they
7 have a right to ask us for the variance, but we
8 have a right to consider the town at large and,
9 you know, they went from 39 to 45, and now I
10 wasn't aware, I mean, you look at the Fish
11 Gourmet it doesn't look like a big place, but I
12 didn't know it had 70 seats. So you got 115
13 potential customers coming into the area, you
14 know, especially around Lent or on a Friday or
15 Saturday night. I don't get it. I don't
16 understand how all these people are going to
17 park up there, because really this isn't a
18 walking town. People don't walk to go out to
19 eat here. They drive everywhere.

20 So I'm troubled by the whole
21 application, I really am.

22 MR. GAROFALO: Mr. Chairman, do you
23 want me to respond to that?

24 THE CHAIRMAN: Sure, why not.

25 MR. GAROFALO: The study was done

DINA M. MORGAN, REPORTER

1
2 actually during Lent on a Friday and again on a
3 Saturday, so we were trying to look at the
4 worst condition. Yes, you're right, they're
5 not creating any more parking space, what they
6 are doing is filling in vacant spaces that are
7 already there. That's the difference between
8 what is -- that's exactly what they're doing.
9 They looked at that area where you could easily
10 walk to the restaurant once you park, and there
11 appears to be plenty of parking for both these
12 restaurants within that area.

13 MR. MILLER: Well, wait. If you're
14 considering the Dunwoodie parking, which is
15 down basically near the Hudson Valley Bank if I
16 understand you correctly if that's the lot
17 you're referring to, it's a stretch to say that
18 is parking for any of those restaurants,
19 because, one, it's a steep hill and it's a
20 difficult walk and it's not realistic to think
21 people are going to park there and then walk up
22 the hill. As far as my understanding of those
23 lots -- of those spaces from living in the town
24 and being in that area many times and going to
25 the restaurants in that area at night it's not

DINA M. MORGAN, REPORTER

♀

19

1 EASTCHESTER ZBA - 6/9/15
2 you're filling the spaces, they're filled.

3 It's not you're just filling in spaces. They
4 are filled. So getting back to my point when
5 you were here last time where I'm encouraging
6 you to look to other areas to by licenses, such
7 as other restaurants in this town do, because
8 that area where you want to get the variance is
9 already congested and is already filled on
10 Saturday, Sunday, Friday nights. So we're not
11 filling in spaces. I think we have to be clear
12 here, you're not filling in spaces, those
13 spaces are already taken. This is my problem
14 with your application. So they're already
15 taken.

16 MR. GAROFALO: The Dunwoodie lot is
17 long term parking. It's not really considered
18 for the customers. We looked at that as a
19 potential place for the employees, as well as
20 the north end lot, which are both much further
21 away. So the Dunwoodie lot was not looked at
22 in terms of the customers. For the customers
23 we were looking at Summerfield Street,
24 Summerfield Street/Brook Street lot, and Brook
25 Street. Yes, you're right that directly

DINA M. MORGAN, REPORTER

♀

20

1 EASTCHESTER ZBA - 6/9/15
2 adjacent to the Fish Gourmet those spaces are
3 at least 90 percent filled from your 6 p.m. to
4 your 8 p.m. But as you get further and further

5 away, you end up getting more and more vacant
6 spaces. So, yes, you're right, you're not
7 filling in the spaces that are between this
8 site and White Plains Road, because most of
9 those spaces are filled, but you're looking at
10 spaces that are further away, and basically
11 what the study showed is, yes, in this area
12 there are plenty of vacant spaces to handle
13 this use.

14 MR. CAHALIN: Their first presentation
15 they told us that the lot over by CVS was
16 walking distance to the restaurant, it was a
17 four to five minute walk. Now we come back two
18 months later and they said that was never
19 considered, which is not what we were told, and
20 now I agree if you want to put employees out
21 there, fine, that's where you should put the
22 employees, I have no issue with that, but we
23 were told initially that that lot over by CVS
24 was a potential for parking for patrons.

25 MR. GAROFALO: I did look at both the

DINA M. MORGAN, REPORTER

♀

21

1 EASTCHESTER ZBA - 6/9/15
2 short term and the long term parking in the
3 north end lot, which is adjacent to CVS. I did
4 look at that as well as the Ackerman lot,
5 because that also has short term parking. But
6 it's very clear that customers won't have to

7 park there, that there's plenty of parking
8 closer than those lots.

9 Now, I will say that of all the lots
10 one of the lots that has the most short term
11 vacant parking is the north end lot, and it is
12 about a four or five minute walk to the
13 restaurant. But in terms of utilization, the
14 customers aren't going to park there simply
15 because it's farther away. They'll park within
16 that 400 foot.

17 MR. CAHALIN: Right, so they'll circle
18 around and circle around on a tough corner to
19 try to get a spot when somebody is coming out
20 of someplace to go back in, which further adds
21 congestion to the corner if you're saying
22 they're going to fill in. That's what people
23 do, they circle until they find a spot.

24 MR. GAROFALO: Well, there should be
25 plenty of spots for them to find.

DI NA M. MORGAN, REPORTER

♀

22

1 EASTCHESTER ZBA - 6/9/15

2 MR. CAHALIN: Okay.

3 MR. GAROFALO: Thank you.

4 THE CHAIRMAN: Mr. Miller.

5 MR. MILLER: Yes. When you're talking
6 about Summerfield, you're talking about --
7 please correct me if I'm wrong -- spots which
8 will be in front of people's houses, correct,

9 or are you talking about something different?
10 MR. GAROFALO: In terms of the permit,
11 spots are basically -- it's a little bit larger
12 than that red circle. It goes down to the auto
13 body spot. Those are now permit parking spaces
14 from 8 a.m. to 6 p.m., and you have the auto
15 body, you have some offices over here. So
16 generally when the offices let out, those
17 spaces become available because they're being
18 cleared out. The same with the auto body shop.
19 The auto body shop basically they want to get
20 their customers their cars back. So both their
21 employees and the cars they maybe working on
22 those tend to leave basically at a peak time
23 when you would want to have parking for the two
24 restaurants.
25 THE CHAIRMAN: Anything else? Do you

DINA M. MORGAN, REPORTER

♀

23

1 EASTCHESTER ZBA - 6/9/15
2 have anything else from Mr. Garofalo?
3 MR. CAHALIN: No. I'm interested to
4 see what our consultant has to say.
5 THE CHAIRMAN: And that's where my
6 comments are going to lead. I have nothing to
7 add at this point. I would like to have Mr.
8 Grealy come up and provide his presentation,
9 please.
10 MR. GREALY: Good evening. Philip

11 Grealy, Maser Consulting. We were asked to
12 review the various reports prepared by Tim
13 Miller Associates and to look at the
14 conditions. I think there were a series of
15 four or five different letters or submissions
16 from the applicant.

17 We had two letters, the first being a
18 May 6th letter, that asked for additional
19 clarifications in terms of the areas that were
20 surveyed, in terms of traffic, in terms of the
21 permit spaces that they actually had, which I
22 guess we're hearing tonight they actually have
23 four, we were assuming they had two.

24 The most recent letter that the
25 applicant's attorney quoted sections from was

DINA M. MORGAN, REPORTER

♀

24

1 EASTCHESTER ZBA - 6/9/15
2 our June 4th letter. Basically what we found
3 in looking over this study and visiting the
4 site, that if you look at the overall area,
5 there are spaces, okay. Some of them are not
6 very convenient, and I think that's an
7 important point in terms of where are those
8 spaces and where patrons tend to look. Just,
9 you know, we talked about the grade on
10 Summerfield. We talked about the permit
11 spaces. For example, if I'm coming to this
12 restaurant, you know, I may find that in the

13 evening, yes, there are spaces on Brook Street
14 for me to park, but they're not visible from
15 where I'm going to the restaurant. So I think
16 there's two issues here. One is if you look at
17 the amount of parking in the area and people
18 tend to not want to walk. In the CVS lot down
19 where the old Albanese's used to be the north
20 lot there's spaces there at different times
21 that you could use and, you know, some people
22 may say, okay, I want to go to that restaurant,
23 I'm going to park there, and I know how I'm
24 going to walk. Part of the problem is people
25 don't usually like to walk. They like to park

DINA M. MORGAN, REPORTER

♀

25

1 EASTCHESTER ZBA - 6/9/15
2 as close as they can to the restaurant. So
3 we're in agreement if you look at the whole
4 area, and again, we're not looking north of
5 here because you're not going into the
6 neighborhood really to park, it's really this
7 area that Mr. Garofalo talked about, and you
8 start getting at distances which is a decent
9 walk but not unreasonable if the location
10 you're going to is visible. Here we have a
11 situation where the restaurant is not visible
12 from the north lot or from Brook Street. But
13 if you do look at the overall area, and they
14 looked at peak times, they looked Friday,

15 Saturday, they did throughout the day and in
16 the evenings. The evenings tend to get a
17 little better when some of the businesses go
18 down, when the auto body shop shuts down, but
19 again, I think a lot of spaces like along Brook
20 Street here once you get further, you know, to
21 the west on Brook Street, yeah, you're going to
22 find a spot there, but it's not like there are
23 ten spots together, they're scattered around,
24 which may tend to some circulation, additional
25 circulation, but if you if you look at the way

DINA M. MORGAN, REPORTER

♀

26

1 EASTCHESTER ZBA - 6/9/15
2 their study was done and you look at the
3 overall parking area, there are spaces. It's a
4 question of the convenience to the building and
5 the visibility, which could lead to some
6 additional, you know, traffic movements,
7 because people tend to try to go to the
8 restaurant as close as they can.
9 Now, there's a couple of ways you can
10 help with that. If you have people that are
11 repeat customers, they're going to know where
12 to try to park. If you have advertisements
13 where people are coming, you could say, please
14 park on Brook Street and walk to the
15 restaurant. Not everybody is going to listen
16 to that, but it helps in terms of making people

17 aware and cutting down on the area that they're
18 going to circulate.

19 I think the information they provided
20 is reasonable in terms of area that they looked
21 at. I think from what we saw we confirmed that
22 there were spaces in the area scattered, but
23 because of the visibility and the convenience
24 factor, you know, will people -- I think Mr.
25 Garofalo is right that all of a sudden your

DINA M. MORGAN, REPORTER

♀

27

1 EASTCHESTER ZBA - 6/9/15
2 parking that may have been closer radius to the
3 other uses is now going to spread out because
4 the area that spaces are available are further
5 on the perimeter from the area. So if you look
6 on a Saturday night when the Fish Gourmet is
7 active, you may find spaces a little
8 further away, but now they're going to start to
9 expand. I think in terms for a 45 seat
10 restaurant I think the code is pretty
11 consistent with what we see as standard, that
12 what you would provide for a 45 seat restaurant
13 you typically provide around 17 spaces. So
14 it's not like you have a code that's low. It's
15 pretty reasonable. Now that they have four
16 permit spaces, that helps. But again, I think
17 it's a question of visibility and convenience
18 that you're talking about in terms of getting

060915ZB.txt

19 to the store.

20 MR. CAHALIN: Would valet help at all?

21 MR. GREALY: Well, there's two things:
22 One was that originally there was some talk of
23 possibly takeout. They said they're not going
24 to have takeout, so that helps. I think valet
25 would be helpful, but then there's a question

DINA M. MORGAN, REPORTER

‡

28

1 EASTCHESTER ZBA - 6/9/15
2 of where do you have the valet, which is always
3 the question that comes up. Now, if they have
4 the four permit spaces, in the evening it would
5 be helpful because your office employees are
6 gone, your restaurant employees that are there
7 working in the evening there's four spaces for
8 them to park assuming that they're driving. So
9 you still have those four permit spaces that
10 may be useful for valet, but it's not a big
11 quantity to have a full-time valet. It's a way
12 of using those four permit spaces that the
13 applicant has now secured, which really then
14 you're starting looking at a shortfall of nine
15 remaining in the area. So I think that would
16 be something that would be beneficial. I think
17 the advertising or the marketing of it as to
18 tell people, when you come here on a Friday
19 night, here's where you should park.

20 Again, people tend to try to park as

21 close as they can, but if it's a good
22 restaurant, I know I'll park and walk. But
23 again, it's going to create the area to grow in
24 terms of where people do park. I don't think
25 you're going to get much going further to the

DINA M. MORGAN, REPORTER

♀

29

EASTCHESTER ZBA - 6/9/15

1
2 west. I think the overlap of Summerfield
3 Gardens, again there because once you get
4 downgrade a lot of the parking that they were
5 looking if they had to use on-street parking
6 was even further to the west, which when
7 offices down there close is available. So
8 it's -- you know, I think their study is
9 reasonable, but you have to look at the fact of
10 the visibility and the convenience to those
11 spaces.

12 MR. CAHALIN: Thank you.

13 THE CHAIRMAN: Thank you, Mr. Grealy.

14 So if you don't mind staying up one more
15 minute, let's see if we have any other
16 questions from the Board. Mr. DeMarco?

17 MR. DE MARCO: No.

18 THE CHAIRMAN: Mr. Nurzia?

19 MR. NURZIA: I have a question on the
20 upstairs at the premises. It's office use
21 right now.

22 MR. GREALY: Yes.

23 MR. NURZIA: Is the applicant using
24 that space or is that rented out to somebody
25 else? I know in one of the reports it had that

DINA M. MORGAN, REPORTER

♀

30

1 EASTCHESTER ZBA - 6/9/15
2 office would be cleared out at 5:00. I just
3 wanted to some clarification on what that
4 effect is.

5 MR. GREALY: I think in terms of that
6 could be a condition that they stated that,
7 they say it in their reports that that would
8 have to be a condition, that the office has to
9 be closed at 5:00. You're talking about an
10 overlap period. I think on a Friday evening
11 you're not going to have a lot of activity in
12 an office after 5:00, but there could be some.
13 Again, it's kind of a positive. When you look
14 at shared parking, it is a positive use of
15 having a restaurant and an office space
16 together in the area.

17 THE CHAIRMAN: Mr. Nurzia, anything
18 else?

19 MR. NURZIA: No.

20 THE CHAIRMAN: Mr. Miller?

21 MR. MILLER: No.

22 THE CHAIRMAN: Mr. Cahalin?

23 MR. CAHALIN: No.

24 THE CHAIRMAN: Mr. Grealy, I have

25 nothing other than to say, thank you for the

DINA M. MORGAN, REPORTER

♀

31

1 EASTCHESTER ZBA - 6/9/15
2 thought and time you've been put on this.
3 You've been very enlightening. Thank you.
4 Okay, now that we've amplified -- Mr.
5 Garofalo, would you like to add something?
6 MR. GAROFALO: I just want to point
7 out one thing.
8 THE CHAIRMAN: Sure.
9 MR. GAROFALO: The permit spaces on
10 Summerfield are from 8 a.m. to 6 p.m., so
11 there's a time limitation on the permit spaces
12 on Summerfield Street.
13 THE CHAIRMAN: Okay. Thank you.
14 Okay, as the public hearing is going to
15 continue, I would like to know if there is
16 anyone from the public that would like to speak
17 on this matter. Sure. Come forward. Give us
18 your name and proceed.
19 MR. ROSS: Good evening. My name is
20 Rick Ross. I own Eastchester Fish Gourmet.
21 One of the problems I find with the area, it is
22 very congested. Parking is difficult now
23 without the restaurant being there. You might
24 know that a car drove through our restaurant.
25 The gentleman was trying to make a right turn

♀

1 EASTCHESTER ZBA - 6/9/15
2 to go down Summerfield and instead of hitting
3 the brake he hit the gas and he went right
4 through the restaurant. Last month my car was
5 parked there, it was hit, because what a lot of
6 people do is they try to avoid the light at
7 Brook Street, and they make a right turn to go
8 down Summerfield Street. So it's very
9 congested. I have no problem with another
10 restaurant in the area, but in that location
11 it's just not feasible. If you drive down
12 Summerfield Street, very seldom you don't have
13 cars parked on both sides of the street. It's
14 a serious issue, and I think the town should
15 look at that. The parking is tight. There are
16 some merchants here from the stores on White
17 Plains that we do have a parking problem
18 already. So, you know, it's not that, you
19 know, there is no problem.

20 The other thing, Summerfield now --
21 the metered spots on Summerfield now are permit
22 spots. So basically it's taking a lot of spots
23 away from people parking and now they go into
24 the Summerfield lot or the Brook Street lot,
25 which is also a problem for us. So that's all

♀

1 EASTCHESTER ZBA - 6/9/15

2 I have to say. Thank you.

3 THE CHAIRMAN: Thank you. Anybody
4 else? Please.

5 MALE SPEAKER: My name is (inaudible)
6 North End Quality Meats. The parking in that
7 Summerfield brook lot is already very
8 difficult. From about 12:00 to 6:00 we're
9 open, we close at 6:00. I mean, I have to
10 explain to many customers a day why there isn't
11 any parking, why you guys took even more permit
12 spots in the back. Just seeing the area, I
13 mean, I'm there six days a week, there is no
14 parking as it is. It's not -- I mean, to add
15 another restaurant there, to add more people
16 coming in and out of the area it's going to
17 hurt our business, all the other businesses on
18 the block, and I'm strongly against it.

19 THE CHAIRMAN: Thank you. Please.

20 MR. ANDERS: Good evening. My name is
21 Tom Anders. I live in the north end of
22 Eastchester, and I patronize and have
23 patronized for many moons the businesses in
24 that area, and I'm familiar with the area.

25 As many have already said, there are

DINA M. MORGAN, REPORTER

♀

2 several issues with the requested variance.
3 While it might satisfy the applicant, it will
4 have a negative effect on the surrounding
5 merchants in the area. This is a relatively
6 vibrant business area today, and it
7 economically helps supports the town.
8 Negatively affecting surrounding businesses by
9 increasing congestion and creating parking
10 issues is counter productive. The Zoning Board
11 should consider the impact on the entire area.

12 The first issue, of course, is
13 parking. The applicant needs 17 parking spaces
14 to be in compliance with the zoning code and he
15 has four slash now eight. Parking study by the
16 applicant's consultant was done, but the
17 solutions suggested are theoretical, not
18 practical. The parking shortfall is not easily
19 accommodated, as implied. Expecting customers
20 to walk from the Ackerman lot, the CVS lot, the
21 town lot adjacent to CVS, or the Dunwoodie lot
22 to the perspective restaurant site is not
23 practical. The steep side grade location
24 without sidewalks will require customers to
25 walk in the street. Can you imagine this at

DINA M. MORGAN, REPORTER

♀

35

1 EASTCHESTER ZBA - 6/9/15

2 night?

3 While permit parking might help

4 employees and residents, it's really not
5 appropriate or suitable for customer parking.
6 Also, permits are easy to grant but very hard
7 to rescind. If and when the Summerfield
8 Gardens project occurs, parking during and
9 after construction will be even more
10 problematic with many more people in the area.
11 I invite you to observe the Trader Joe's
12 situation for a local example of insufficient
13 parking. In that area theoretically overflow
14 parking is available along Rescigno Drive, at
15 Greenvale School during non-school hours, and
16 in the Citibank lot after business hours. In
17 practice parking at Trader Joe's is a nightmare
18 almost all of the time.

19 Also, pedestrian safety will be
20 compromised. Pedestrian crossing of upper
21 Summerfield with very poor lines of sight at
22 the crest of the hill and Route 22 with heavy
23 traffic are very dangerous today. Increasing
24 pedestrian volume with this new proposal will
25 only make matters worse. Pedestrian crosswalks

DINA M. MORGAN, REPORTER

♀

36

1 EASTCHESTER ZBA - 6/9/15

2 will become necessities.

3 Based upon these above items, I
4 strongly recommend that this application be
5 denied. Thank you.

6 THE CHAIRMAN: Thank you for your
7 time. Is there anyone interested in speaking
8 on this application? Please.

9 MR. BAUMAN: Louis Bauman. I live on
10 the north end of town since 1977, and I had the
11 honor of sitting in your chair from 1985 to
12 2000 as the Chairman of the Zoning Board here.
13 At no one's behest but my own interest in this
14 case in this proceeding, that's why I'm here
15 tonight.

16 The whole point that has been raised
17 since tonight concerning the parking is a
18 situation of grabbing at straws, I think.
19 There are several parking lots which here and
20 there you have a space here or a space there.
21 I think Mr. Cahalin raised the point initially
22 when he asked the question tonight --

23 MR. TUDISCO: Mr. Bauman, can you
24 speak into the microphone.

25 MR. BAUMAN: Sure. I think Mr.

DINA M. MORGAN, REPORTER

♀

37

1 EASTCHESTER ZBA - 6/9/15
2 Cahalin made a very good point tonight when he
3 discussed the question of no added spaces.
4 There are no added spaces that are being
5 offered here other than the fact that the
6 applicant has gotten some permits to reduce the
7 number of the variance, but the variance is

8 still very substantial.
9 I know that I was on the Board in the
10 Eighties when CVS came in. That was a much
11 bigger application as far as parking was
12 concerned, but there was a large parking lot
13 right as part of the -- next door to the
14 property that the CVS store was built, and we
15 had more discretion -- the Board had more
16 discretion in that case to play a little bit
17 with the parking. It's not going to be that
18 crowded in terms of particular times of the
19 day, particular times of the week, and we had
20 more discretion. So we played with it for
21 several months, by the way, and we finally came
22 up with, I think, a workable solution in that
23 CVS application at that time, because it was a
24 necessary ingredient for that application, and
25 we were able to do it.

DINA M. MORGAN, REPORTER

♀

38

1 EASTCHESTER ZBA - 6/9/15
2 This particular application from the
3 beginning I have said to my wife at home and
4 watching the first hearing from my house from
5 the TV, there has got to be a problem with the
6 parking, and that was without looking at the
7 applicant's case. I didn't have Mr. Garofalo's
8 report tonight, and I didn't have the other
9 report that was reported on tonight, but to me

10 there is a very serious parking problem, and to
11 me it has something to do also with the
12 feasibility of a successful restaurant. Now,
13 we're not supposed to consider that, it's up to
14 the applicant to make that business decision,
15 but I don't think you're going to find a very
16 promising situation for an applicant, a
17 restaurant in this particular location on
18 the beginning of a steep hill. People are just
19 not going to be walking. It was pointed out by
20 the previous speakers tonight.

21 I am very strongly suggesting to the
22 Board that they consider this as a very
23 negative argument as far as whether this
24 application should be passed -- should be
25 passed or not. I don't think that the Board in

DINA M. MORGAN, REPORTER

♀

39

1 EASTCHESTER ZBA - 6/9/15
2 its discretion is going to be thinking in terms
3 of the entire town as far as the problems that
4 go beyond this particular application. They go
5 beyond the Eastchester Fish Gourmet. There is
6 a serious problem in this immediate area and
7 going out so many feet to the other parking
8 lots which have been referred to here and are
9 being considered as potential parking for this
10 particular applicant. So I urge you to
11 consider very strongly in the negative for the

12 parking argument that the application should
13 not be passed. It should be denied. Thank
14 you.

15 THE CHAIRMAN: Thank you, Mr. Bauman.
16 Is there anyone else who would like to speak on
17 this application?

18 (No comments.)

19 THE CHAIRMAN: Okay. Seeing nobody
20 else, is there a motion to close the public
21 hearing?

22 MR. MILLER: So moved.

23 THE COURT: By Mr. Miller. Is there a
24 second?

25 MR. CAHALIN: Second.

DI NA M. MORGAN, REPORTER

♀

40

1 EASTCHESTER ZBA - 6/9/15

2 THE CHAIRMAN: Mr. Cahalin. All in
3 favor.

4 (All aye.)

5 THE CHAIRMAN: Okay. I would like to
6 get final comments from the board members. Mr.
7 DeMarco?

8 MR. DE MARCO: Nothing.

9 THE CHAIRMAN: Mr. Nurzia?

10 MR. NURZIA: No comments.

11 THE CHAIRMAN: Mr. Miller?

12 MR. MILLER: Well, actually, I don't
13 want to throw a monkey wrench in this, but I

14 have a question for our engineer, and I'm not
15 sure if I could ask that question.

16 THE CHAIRMAN: You sure can. Mr.
17 Greal y.

18 MR. GREALY: Yes, sir.

19 MR. MILLER: I would like to ask this
20 in a very simplistic way.

21 MR. GREALY: Yes.

22 MR. MILLER: In your opinion, as an
23 expert in this field, is there sufficient
24 parking in the immediate area if we were to
25 grant this variance?

DINA M. MORGAN, REPORTER

♀

41

1 EASTCHESTER ZBA - 6/9/15

2 MR. GREALY: I believe that in the
3 entire area there is.

4 MR. MILLER: I asked immediate area.

5 MR. GREALY: Based on accepted walking
6 distances, yes, but again, visibility-wise and
7 convenience-wise, but if you look at the
8 parking study, there are a scattering of
9 spaces. I think one of the other speakers said
10 it. So it's not like there's a group of
11 spaces, but if you look at the total area, my
12 opinion that there is enough parking is a
13 question of the usability because of the lack
14 of visibility to the site and the lack of
15 convenience to the site. Clearly if I wanted

16 to go to this restaurant, I could find the
17 space to park.

18 MR. MILLER: Does the lack of
19 visibility and I think feasibility was the
20 other word you said?

21 MR. GREALY: Visibility and
22 convenience.

23 MR. MILLER: Does that in some manner
24 negate the other parking spaces in your
25 opinion?

DINA M. MORGAN, REPORTER

♀

42

1 EASTCHESTER ZBA - 6/9/15

2 MR. GREALY: Well, I think it's a
3 question of if people going to a restaurant,
4 okay, some uses they won't go, some business,
5 but if you're going to a restaurant, you will
6 tend to find a parking space and go to that
7 restaurant. There's other locations in town
8 where people walk the distances to get to those
9 restaurants, absolutely.

10 MR. MILLER: Part of my concern is
11 here is, we talk about the CVS parking lot.

12 MR. GREALY: Yes.

13 MR. MILLER: People could park there,
14 but, I mean, crossing from where the CVS lot is
15 to where the fish market is and down is
16 treacherous. I mean, I've done it. So I
17 honestly don't --

18 MR. GREALY: What you would do is -- I
19 mean, if you crossed Brook Street on the
20 corner, you have to wait to cross, now in the
21 evening it's a little bit less in the later
22 hours, but the shortest path is to then walk to
23 the Brook Street lot to get over to
24 Summerfield. You don't have sidewalks on
25 Summerfield. Again, once you get to the end of

DI NA M. MORGAN, REPORTER

♀

43

1 EASTCHESTER ZBA - 6/9/15
2 the Brook Street lot, you're almost to the
3 restaurant. So, you know, from that
4 perspective I think there is parking and you
5 can get there when you look at the overall
6 area, but is it the most convenient? No, it's
7 not.

8 THE CHAIRMAN: Anything else, Mr.
9 Miller?

10 MR. MILLER: No.

11 THE CHAIRMAN: Mr. Grealy, thank you
12 again. Mr. Cahalin?

13 MR. CAHALIN: Nothing.

14 THE CHAIRMAN: The only thing I would
15 like to add to this application before we make
16 a motion to adjourn and vote on a resolution at
17 the next meeting, is that I think there is
18 some -- reasonable men may differ, I guess, of
19 the standard when you're talking about

20 convenience, and we're interpreting, I guess,
21 2015 standards of convenience where many people
22 like and are accustomed to Vernon Hills, not at
23 Christmas, but are accustomed to parking in
24 front. I can speak for myself, I'll spend 15
25 minutes looking for a parking spot in front of

DINA M. MORGAN, REPORTER

♀

44

1 EASTCHESTER ZBA - 6/9/15
2 the gym I'm going to. So that's certainly
3 today's culture. But we have to balance that
4 with the fact that our community also has many
5 older areas, World War II, pre-World War II
6 like Garth Road that don't have sufficient
7 parking.

8 My bigger concern with this
9 application was addressed only partially with
10 two things: One was the obtaining of private
11 spots, and that's a great thing, wondering why
12 maybe more can't be obtained, and also the
13 manner in which they're obtained and the
14 permanency of those spots, which dovetails with
15 my second point, and that is I was very
16 concerned at the beginning of this application
17 with the idea of takeout, because no one is
18 moving more than 5 feet from the front door on
19 takeout, and I'm glad to hear that that was
20 withdrawn. But once again, I'm concerned about
21 the enforceability of that concept, and again,

22 I'm weighing that against the idea of land
23 locking businesses and real estate into 2015
24 concepts. So, as you can see, I'm torn by
25 that. I would like to learn more about the

DI NA M. MORGAN, REPORTER

♀

45

1 EASTCHESTER ZBA - 6/9/15
2 permanency of the parking spaces that have been
3 obtained and maybe more parking spaces can be
4 obtained. Otherwise, I believe the Board is
5 have ready to vote on a resolution. So maybe
6 the applicant can address that point before we
7 conclude the application?

8 MR. DIBBINI: I would just say that
9 that comment and concern that the Board has I
10 understand is a real concern, but make the CO
11 conditioned upon having those parking spaces,
12 make the CO conditioned upon no take out
13 service. My client stands by his word if he
14 says no takeout service, they won't have it.
15 We understand that the Board is heavily
16 weighing all the issues here, and if you do
17 grant it, which we hope you will, they'll stand
18 by their obligation not to have takeout to
19 create the congestion in front of the location.
20 We understand the importance to keep the
21 traffic flowing and they're eager to open up
22 their little bistro, and they will make it work
23 without the takeout.

24 THE CHAIRMAN: I have a follow-up to
25 that. Before I do that, even though the Board

DINA M. MORGAN, REPORTER

♀

46

1 EASTCHESTER ZBA - 6/9/15
2 is full of lawyers, I want to consult our
3 lawyer.
4 MR. CAHALIN: Excuse me.
5 THE CHAIRMAN: Yes, you're the voice
6 of reason, Mr. Cahalin. I would like to
7 consult with out lawyer about possibly the idea
8 of locking in to any partial or conditional
9 approval via these concepts. Are they have
10 available?
11 MR. TUDISCO: The problem that you're
12 going to face, in my opinion, is -- with any
13 conditions -- is with respect to enforcement.
14 And my bigger concern, because I'm the person
15 that ultimately has to enforce these if
16 violations are brought in terms of violations
17 of the agreement or whatever through the
18 Building Department, I don't know -- the
19 defendant -- the applicant with the very best
20 of intentions may embark on or even secure
21 parking spaces. To the extent that they remain
22 permanent may not be within the control of
23 either the Board, the town, or the applicant if
24 there are other parties that are involved.
25 There is no way of kind of enforcing that and

DINA M. MORGAN, REPORTER

47

1 EASTCHESTER ZBA - 6/9/15
2 maintaining that permanently. If there was a
3 potential solution, and I hate to get into
4 factual scenarios hear, but one potential way
5 to resolve it would be a valet parker or a
6 valet parking situation where a person meets
7 people at the curb and brings the cars to those
8 extended spots in different lots in the area
9 and brings them back to the people. A true
10 running valet. But in terms of the permanency,
11 there is no way I could draft a condition
12 because what they agreed to may be at the
13 behest of the person that's leasing a spot to
14 them and that may change down the line. So
15 it's really difficult.

16 THE CHAIRMAN: Ms. Uhle, would you
17 like to add anything to that?

18 MS. UHLE: Yes. I agree with Rob.
19 First of all, with regard to making the permit
20 parking spaces a condition of approval, I do
21 think that it is hard to enforce if
22 circumstances change that are out of the
23 applicant's control. I mean, it only benefits
24 the applicant to have those permit spaces to
25 begin with. I think that's a mitigating factor

♀

48

1 EASTCHESTER ZBA - 6/9/15
2 in your consideration now, but I do think that
3 that is -- if those spaces for some reason
4 don't become available, we don't have much of a
5 recourse to take them to court, shut them down,
6 you know, revoke their Certificate of
7 Compliance. I don't think any of those
8 scenarios are likely to happen. I do not like
9 conditions that we can't enforce.

10 With regard to the -- we may want to
11 talk to Mr. Grealy about this a little bit
12 more. I know he did say something like valet
13 parking is often helpful as a mitigating
14 factor. The only thing, I would want to look
15 into that a little bit more because I know in
16 other circumstances the police department is
17 concerned about now you have three or four cars
18 waiting on Summerfield Street for somebody to
19 pick up the valet car. You're creating
20 congestion right there. People can't get
21 through. So I'm not even sure that the valet,
22 especially when you're talking about going to
23 scattered spaces. It's one thing if you have a
24 pull off area for a valet and then they drive
25 the cars down to a lot. This to me sounds like

♀

1 EASTCHESTER ZBA - 6/9/15

2 it could create some additional chaos on its
3 own to condition for the valet.

4 I would have to say the condition of a
5 no takeout is a little bit complicated as well.
6 When we have those kind of conditions, most
7 businesses do try to work with the Building
8 Department. We'll issue a violation. But
9 again, in term of how much real teeth we have
10 for those kinds of things, it's a little bit
11 complicated, especially once the building and
12 permit or a Certificate of Compliance has been
13 issued. The most effective conditions of
14 approval are where we say, we will not issue a
15 building permit until you rectify certain
16 things or we won't give you a CO. Once that CO
17 has been issued, unless something is incredibly
18 egregious, it's very hard to enforce those
19 conditions.

20 MR. CAHALIN: I think it would be
21 naive of us to think that even with the best of
22 intentions if their business model changes and
23 they need to go to takeout to make up the
24 difference or it's highly successful and people
25 start calling in and saying, I'm just going to

DINA M. MORGAN, REPORTER

♀

1 EASTCHESTER ZBA - 6/9/15

2 run in and pick up some pasta, we have no
3 control. It could get out of control. It
4 could be highly successful and people will go
5 and get the food. To no fault of the
6 applicant, this could happen, and, you know, as
7 Margaret and our attorney pointed out, we have
8 no control of it.

9 MR. TUDISCO: I want to clarify that,
10 and I understand the scenario you're bringing
11 forth, but I think reading from the four
12 corners of the page I think if an applicant is
13 going to agree to certain conditions, I would
14 assume that you would have to operate on the
15 belief that the applicant is going to adhere to
16 the conditions that they agreed to, and if they
17 don't, there may be issues about
18 enforceability. The problem that I'm concerned
19 about is a deeper one, and that is that if the
20 applicant purchases or licenses spots from a
21 third party that is not part of this
22 application and that party sells their property
23 or their lot to someone else, they are far
24 field. Even assuming that the applicant has
25 the best intentions, there is no way that the

DINA M. MORGAN, REPORTER

♀

51

1 EASTCHESTER ZBA - 6/9/15
2 Board or the applicant can really enforce it
3 because it's outside of the purview of what's

4 going on here. That is, I think, a bigger
5 problem that you have in terms of your
6 question, Mr. Chairman, about permanency and
7 assurances that the applicant or anyone else
8 could give you, because if they're going to
9 third parties, no one can control that.

10 THE CHAIRMAN: Mr. Tudi sco, that's why
11 great minds think alike. That was my
12 follow-up. I wanted you to amplify how you
13 obtained these spots, the manner in which these
14 lots have been secured, and the potentiality
15 for other spots.

16 MR. DIBBINI: These spots were offered
17 from the town. I think the town put them up
18 and my client submitted applications with the
19 town, and the town granted my client's
20 application to lease those spots.

21 THE CHAIRMAN: So we're talking about
22 permit spots only?

23 MR. TUDI SCO: Permit spots are not an
24 issue, because that's with the town. I'm
25 talking about he was going to go to other

DINA M. MORGAN, REPORTER

♀

52

1 EASTCHESTER ZBA - 6/9/15
2 parties.

3 MS. UHLE: All that's being proposed
4 right now are those four spots. They haven't
5 made any claims that they're going to a third

6 party or anything. I don't think that we can
7 condition that they go to a third party when
8 they haven't even offered that.

9 THE CHAIRMAN: I'm not conditioning.
10 I actually wasn't clear on that.

11 MS. UHLE: They secured four permit
12 parking spots that their employees can use
13 during the day.

14 THE CHAIRMAN: Okay.

15 MR. TUDISCO: Spots that are licensed
16 from the town there is no third party issue
17 then. Enforcement is within the reach of the
18 town and the Board in terms of conditions and
19 the Building Department. It may get tricky
20 from time to time, but that's not what I'm -- I
21 was talking about leasing spots from other
22 parties, another parking lot or something like
23 that.

24 MS. UHLE: Again, all they're
25 proposing as a mitigating factor right now is

DINA M. MORGAN, REPORTER

♀

53

1 EASTCHESTER ZBA - 6/9/15
2 four permit spots. Even though they're getting
3 those permits from the town -- and I'm not
4 saying this to negatively reflect on the
5 applicant at all -- I'm just saying again as a
6 condition of approval if the town decides to
7 come back next year and put meters back where

8 they had the permit spots, that's out of the
9 control of the applicant. As long as the town
10 continues to manage those as permit spots, I
11 think you will be pretty secure because I think
12 it only benefits the applicant. Again, if a
13 year from now the town were to replace those
14 with meters and said this permit idea didn't
15 work out too well, then they're in violation of
16 a condition of approval that they no control
17 over. Actually, I think it's a very good
18 mitigating factor for them to say that we have
19 permit spots. To make that a condition of
20 approval for the immediate term, I don't think
21 that's easy to enforce long term.

22 THE CHAIRMAN: Okay. Thank you, Mrs.
23 Uhl e. I have nothing further to add.

24 MR. DIBBINI: Nothing further.

25 THE CHAIRMAN: Okay. I thank you for

DINA M. MORGAN, REPORTER

♀

54

1 EASTCHESTER ZBA - 6/9/15

2 your time.

3 MR. DIBBINI: Thank you very much for
4 your time also.

5 THE CHAIRMAN: Is there a motion to
6 adjourn for a resolution at the next meeting?

7 MR. TUDISCO: You still have the
8 public hearing open.

9 THE CHAIRMAN: Mr. Tudi sco, do you

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

have anything to add?

MR. TUDISCO: I just wanted to make sure the public hearing was been closed.

THE CHAIRMAN: Yes, it has been closes.

Is there a motion to adjourn for a resolution at the next meeting?

MR. DE MARCO: So moved.

THE CHAIRMAN: By Mr. DeMarco.

MR. DE MARCO: Is there a second?

MR. NURZIA: Second.

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

(All aye.)

THE CHAIRMAN: We're going to take a two minute break, and then we're going to hear

DINA M. MORGAN, REPORTER

♀

55

1
2
3
4
5
6
7
8
9
10
11

EASTCHESTER ZBA - 6/9/15

the new business.

(A recess was taken.)

THE CHAIRMAN: On to new business. Item 15-34, 22 Maple Street. The applicant come forward.

While you're setting up, this is an application for an area variance to permit a second story addition to an existing single family residence. If you could state your name for the record, please.

12 MR. MAIORANO: Good evening, Board
13 members. My name is Adamo Maiorano from
14 Community Designs. I'm here on behalf of the
15 property owner, Mr. Louis Osso.

16 THE CHAIRMAN: We have your
17 application, and we've reviewed the answers to
18 the five part test, and it's a matter of public
19 record so you don't have to repeat it, but if
20 you can, just highlight for the listening
21 public and the Board just the essential
22 elements of it, please.

23 MR. MAIORANO: Yes. So basically what
24 the client is intending on doing is increasing
25 his house square footage, because he has three

DINA M. MORGAN, REPORTER

♀

56

1 EASTCHESTER ZBA - 6/9/15
2 children, there's five people in the family,
3 and their existing residence is not working for
4 them. So what we're intending on doing is
5 going up upon the existing footprint of the
6 house and part of the existing house, not the
7 entire house, to create a better flow in the
8 interior of the floor plan layout and to
9 aesthetically create a better appearance of the
10 front elevation. The ideal solution for the
11 property owner, the space that they would like
12 to create would be to extend upon the front
13 elevation, which is non-conforming because the

14 20 feet, we need at least 30 feet. So we were
15 looking to build up upon the existing footprint
16 of that front elevation, part of the front
17 elevation to give us that freedom in the floor
18 plan as well as the aesthetic of the front
19 elevation. That would be the ideal solution
20 and that's what we're here requesting an area
21 variance for that.

22 THE CHAIRMAN: Thank you. Take a pass
23 at the Board and see if any of the Board
24 members have any questions for you. Mr.
25 DeMarco?

DI NA M. MORGAN, REPORTER

♀

57

1 EASTCHESTER ZBA - 6/9/15
2 MR. DE MARCO: No.
3 THE CHAIRMAN: Mr. Nurzia?
4 MR. NURZIA: No questions.
5 THE CHAIRMAN: Mr. Miller?
6 MR. MILLER: No.
7 THE CHAIRMAN: Mr. Cahalin?
8 MR. CAHALIN: No.
9 THE CHAIRMAN: I don't have anything
10 at this time. So is there a motion to open
11 this application to the public hearing?
12 MR. MILLER: So moved.
13 THE CHAIRMAN: By Mr. Miller.
14 MR. CAHALIN: Second.
15 THE CHAIRMAN: Second Mr. Cahalin.

060915ZB.txt

16
17
18
19
20
21
22
23
24
25

All in favor.
(All aye.)
THE CHAIRMAN: Does anyone want to be heard on this application?
(No comments.)
THE CHAIRMAN: Okay. Seeing nobody, is there a motion to close?
MR. MILLER: So moved.
THE CHAIRMAN: By Mr. Miller.
MR. CAHALIN: Second.

DINA M. MORGAN, REPORTER

♀

58

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

EASTCHESTER ZBA - 6/9/15
THE CHAIRMAN: By Mr. Cahalin. Okay. We're going to go back to the Board and see if there is anything else. Mr. DeMarco?
MR. DE MARCO: No.
THE CHAIRMAN: Mr. Nurzia?
MR. NURZIA: No.
THE CHAIRMAN: Mr. Miller?
MR. MILLER: No.
THE CHAIRMAN: Mr. Cahalin?
MR. CAHALIN: None.
THE CHAIRMAN: I'm just going to say it's a straightforward and you're not expanding beyond the footprint, so I have no objection to the application. So is there a motion to adjourn this application for a resolution at the next meeting?

18 MR. MILLER: So moved.
19 THE CHAIRMAN: By Mr. Miller. Is
20 there a second?
21 MR. DE MARCO: Second.
22 THE CHAIRMAN: By Mr. DeMarco. All in
23 favor.
24 (All aye.)
25 THE CHAIRMAN: Thank you for your

DINA M. MORGAN, REPORTER

♀

59

1 EASTCHESTER ZBA - 6/9/15
2 time.
3 MR. MAIORANO: Thank you.
4 THE CHAIRMAN: Okay. Next, 15-45, 56
5 Alkamont Avenue.
6 While you're setting up, this is an
7 area variance to also permit a second story
8 addition to an existing single family
9 residence. If you could state your name for
10 the record, please.
11 MR. TANAKA: My name is Ricardo Tanaka
12 (Ph.). I'm the architect for Stephen and Thea
13 Fortunato, 56 Alkamont Avenue.
14 THE CHAIRMAN: Fantastic. We've got
15 your submission. We've read your answers to
16 the five part test and it's a matter of public
17 record. So I'll ask you the same, if you would
18 like to highlight anything for this Board
19 before they have any questions of you.

20 MR. TANAKA: The project is an
21 addition to a second floor residence. They
22 have the same as the previous applicant, three
23 children, and they need to expand their space
24 on the second floor.
25 The existing second floor is already

DINA M. MORGAN, REPORTER

♀

60

1 EASTCHESTER ZBA - 6/9/15
2 non-conforming. So we are basically adding in
3 alignment with that facade, the front facade.
4 However, the house is slanted in relation to
5 the property line, so there is a reduction in
6 the current setback from 19.9 to 19.5 on the
7 corner of the extension. For that matter, we
8 stated in the letter that we are asking for a
9 variance on the distance 19.5, which is 10.5
10 feet from the required setback. I guess that's
11 all we need to explain.

12 THE CHAIRMAN: Thank you for your
13 time. Take a pass at the Board. Mr. DeMarco,
14 any questions?

15 MR. DE MARCO: None.

16 THE CHAIRMAN: Mr. Nurzia?

17 MR. NURZIA: No.

18 THE CHAIRMAN: Mr. Miller?

19 MR. MILLER: No.

20 THE CHAIRMAN: Mr. Cahalin?

21 MR. CAHALIN: Just to say it's a

22 beautiful property. 060915ZB.txt
23 THE CHAIRMAN: I have nothing at this
24 time. So is there a motion to open this
25 application to a public hearing.

DINA M. MORGAN, REPORTER

61

1 EASTCHESTER ZBA - 6/9/15
2 MR. DE MARCO: So moved.
3 MR. CAHALIN: Second.
4 THE CHAIRMAN: By Mr. DeMarco. A
5 second by Mr. Cahalin. We're going to switch
6 that already. All in favor.
7 (All aye.)
8 THE CHAIRMAN: Is there anyone here to
9 speak on this application?
10 (No comments.)
11 THE CHAIRMAN: Seeing nobody, is there
12 a motion to close the public hearing?
13 MR. DE MARCO: So moved.
14 MR. CAHALIN: Second.
15 THE CHAIRMAN: Mr. DeMarco. Second
16 Mr. Cahalin. All in favor.
17 (All aye.)
18 THE CHAIRMAN: Okay. Take another
19 pass at the Board. Mr. De Marco?
20 MR. DE MARCO: No.
21 THE CHAIRMAN: Mr. Nurzia?
22 MR. NURZIA: No.
23 THE CHAIRMAN: Mr. Miller?

24 060915ZB.txt
MR. MILLER: No.
25 THE CHAIRMAN: Mr. Cahalin?

DI NA M. MORGAN, REPORTER

62

1 EASTCHESTER ZBA - 6/9/15
2 MR. CAHALIN: None.
3 THE CHAIRMAN: I have the same comment
4 I had for the prior application:
5 Straightforward, and again, it's within the
6 footprint. I have no objection. Is there a
7 motion to adjourn for a resolution at the next
8 meeting?
9 MR. MILLER: So moved.
10 THE CHAIRMAN: Mr. Miller. Is there a
11 second?
12 MR. DE MARCO: Second.
13 THE CHAIRMAN: Mr. DeMarco. All in
14 favor.
15 (All aye.)
16 THE CHAIRMAN: Thank you.
17 MR. TANAKA: Thank you very much.
18 THE CHAIRMAN: Okay. Application
19 15-38, 569 White Plains Road. And while you're
20 setting up, this is an area variance to permit
21 a proposed 6 foot high fence in the front and
22 side yards of an existing single family
23 residence. State your name for the record,
24 please.
25 MS. GLASSBERG: Michelle Glassberg

DINA M. MORGAN, REPORTER

63

1 EASTCHESTER ZBA - 6/9/15
2 (Ph.). This is my property, and we just want
3 to put up a 6 foot fence along the front and
4 side of the yard. You can see that we're right
5 in front of the high school, and it's a very
6 busy road, just to reduce the noise coming into
7 the house and also for some privacy.

8 THE CHAIRMAN: Okay. Thank you.
9 Board members, any commentary? Mr. DeMarco?

10 MR. DE MARCO: Nothing.

11 THE CHAIRMAN: Mr. Nurzia?

12 MR. NURZIA: No.

13 THE CHAIRMAN: Mr. Miller?

14 MR. MILLER: No.

15 THE CHAIRMAN: Mr. Cahalin?

16 MR. CAHALIN: I have a question. I
17 don't understand why we need the 6 feet on the
18 side. Could you explain why you're you need
19 that, because you're right against that back of
20 Apple Court; right?

21 MS. GLASSBERG: Right.

22 MR. CAHALIN: It looks like they got
23 raised decks. So I don't understand the
24 privacy issue on the side. There's a 4 foot
25 fence there now. If you replaced it with a

♀

1 EASTCHESTER ZBA - 6/9/15
2 solid 4 foot fence, which is within the code on
3 the side of the house, or get a variance to go,
4 you know, back a little bit -- I just don't see
5 the need on the side variance. I understand
6 the front variance completely on the 6 feet,
7 and we also granted the property next door the
8 same 6 feet so it would be contiguous so I
9 understand that. I just don't get the 4 foot.

10 MS. GLASSBERG: On one side actually
11 there is an office building on the left side if
12 you're facing out, and that I would want some
13 privacy with, and then with Apple Court right
14 next to us I just thought it would look nicer I
15 mean for the neighborhood. I mean, I could put
16 a 4 foot fence.

17 MR. CAHALIN: Just my comment.

18 THE CHAIRMAN: Anything else, Mr.
19 Cahalin?

20 MR. CAHALIN: That's it.

21 THE CHAIRMAN: I have nothing at this
22 time. Is there a motion to open this
23 application to a public hearing?

24 MR. DE MARCO: So moved.

25 THE CHAIRMAN: By Mr. DeMarco. Is

♀

1 EASTCHESTER ZBA - 6/9/15
2 there a second?
3 MR. NURZIA: Second.
4 THE CHAIRMAN: Mr. Nurzia. All in
5 favor.
6 (All aye.)
7 THE CHAIRMAN: Is there anyone that
8 would like to speak on this application?
9 (No comments.)
10 THE CHAIRMAN: Seeing nobody, is there
11 a motion to close the public hearing?
12 MR. DE MARCO: So moved.
13 THE CHAIRMAN: Mr. DeMarco. Is there
14 a second?
15 MR. MILLER: Second.
16 THE CHAIRMAN: Mr. Miller. All in
17 favor.
18 (All aye.)
19 THE CHAIRMAN: Okay. Back to the
20 Board. Mr. Cahalin?
21 MR. CAHALIN: Nothing else.
22 THE CHAIRMAN: Mr. Miller?
23 MR. MILLER: No. I'm actually okay
24 with a 6 foot fence contiguous to everything
25 else.

DINA M. MORGAN, REPORTER

♀

66

1 EASTCHESTER ZBA - 6/9/15
2 THE CHAIRMAN: Mr. DeMarco?
Page 61

3 MR. DE MARCO: Nothing.
4 THE CHAIRMAN: Mr. Nurzia?
5 MR. NURZIA: No.
6 THE CHAIRMAN: I similarly don't have
7 any problem with the height of the fence. So
8 at this time is there a motion to close this
9 application and adjourn for a resolution at the
10 next meeting.
11 MR. MILLER: So moved.
12 MR. DE MARCO: Second.
13 THE CHAIRMAN: Mr. Miller and Mr.
14 DeMarco. All in favor.
15 (All aye.)
16 THE CHAIRMAN: Thank you. Last item
17 of new business, 15-41, 22 Parkway Circle.
18 While you're setting up, this is an area
19 variance to permit a second story addition to
20 an existing single family residence.
21 MR. JACOBSON: Good evening. My name
22 is Harry Jacobson. I'm the architect for the
23 McMann's, and we're proposing to fill in a
24 small area, about a 2 foot by 6 foot area about
25 12 square feet total of an area in the rear of

DINA M. MORGAN, REPORTER

♀

67

1 EASTCHESTER ZBA - 6/9/15
2 the house which already has a shed dormer.
3 We're going to mimic what's on the rear right
4 side and fill in that area the blue that I have
Page 62

5 shaded in. Currently we're at 7.9 feet off the
6 side yard setback. We're required 10 feet in
7 this zone, so a 2.1 square foot area variance.
8 THE CHAIRMAN: Okay. Thank you. Any
9 questions for the applicant from the Board; Mr.
10 Cahalin?
11 MR. CAHALIN: None.
12 THE CHAIRMAN: Mr. Miller?
13 MR. MILLER: None.
14 THE CHAIRMAN: Mr. Nurzia?
15 MR. NURZIA: No.
16 THE CHAIRMAN: Mr. DeMarco?
17 MR. DE MARCO: Nothing.
18 THE CHAIRMAN: I have none. Is there
19 a motion to open this application to a public
20 hearing?
21 MR. MILLER: So moved.
22 THE CHAIRMAN: Mr. Miller. Is there a
23 second?
24 MR. DE MARCO: Second.
25 THE CHAIRMAN: Mr. DeMarco. All in

DINA M. MORGAN, REPORTER

♀

68

1 EASTCHESTER ZBA - 6/9/15
2 favor.
3 (All aye.)
4 (No comments.)
5 THE CHAIRMAN: Seeing no one not only
6 coming forward but nobody, is there a motion to
Page 63

7 close the public hearing?
8 MR. NURZIA: So moved.
9 MR. DE MARCO: Second.
10 THE CHAIRMAN: Mr. Nurzia. Second by
11 Mr. DeMarco. All in favor.
12 (All aye.)
13 THE CHAIRMAN: Back to the Board. Mr.
14 Cahalin, anything further?
15 MR. CAHALIN: No.
16 THE CHAIRMAN: Mr. Miller?
17 MR. MILLER: No.
18 THE CHAIRMAN: Mr. Nurzia?
19 MR. NURZIA: No.
20 THE CHAIRMAN: Mr. DeMarco?
21 MR. DE MARCO: No.
22 THE CHAIRMAN: Once again, it's a
23 straightforward application, it's within the
24 footprint, there's no objection from me. So
25 I'll make a motion to adjourn this application

DINA M. MORGAN, REPORTER

♀

69

1 EASTCHESTER ZBA - 6/9/15
2 for resolution at the next meeting. Is there a
3 second?
4 MR. DE MARCO: Second.
5 THE CHAIRMAN: By Mr. DeMarco. All in
6 favor.
7 (All aye.)
8 THE CHAIRMAN: Okay. Thank you for

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

your time.

Before we adjourn for the summer, I know I sound like a broken record, but I would just like to remind the public who are considering applications before this Board, that the calendar is available in the Building Department, and there are only meetings September, October and November. There is no meeting in December. I wish everyone a good summer and we're adjourning. Thank you.

(MEETING ADJOURNED.)

DINA M. MORGAN, REPORTER

♀

70

1
2
3
4
5
6
7
8
9
10

C E R T I F I C A T I O N

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

11 certify:

12 That the above transcript was taken from
13 a videotape of the actual hearing. I was not
14 present for such hearing. The videotape was
15 taken and transcribed by me to the best of my
16 ability.

17 And, I further certify that I am not
18 related to any of the parties to this action by
19 blood or marriage, and that I am in no way
20 interested in the outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set
22 my hand this 8th day of July, 2015.

23
24
25

DI NA M. MORGAN
Court Reporter

DI NA M. MORGAN, REPORTER

♀

71

1
2
3
4
5
6
7
8
9
10
11
12

CORRECTION SHEET

PAGE CORRECTION

060915ZB. txt

13

14

15

16

17

18

19

20

21

22

23

24

25

DI NA M. MORGAN, REPORTER