STATE OF NEW YORK  
COUNTY OF WESTCHESTER  
TOWN OF EASTCHESTER  

TRANSCRIPT OF  
EASTCHESTER ZONING BOARD OF APPEALS  
MARCH 8, 2016  

HELD AT: 
Eastchester Town Hall  
40 Mill Road  
Eastchester, New York 10709  
11:00 p.m.  

BEFORE:  
ALAN FILLA, CHAIRMAN  
MARK G. MARCO, MEMBER  
JOSEPH MILLER, MEMBER  
MICHAEL CANALON, MEMBER  
PETER MURIL, MEMBER  

PRESENT:  
MARGARET JULE, DIRECTOR OF PLANNING  
ROBERT TURISCO, DEPUTY TOWN ATTORNEY  
JAY KING, BUILDING INSPECTOR  
MICHAEL VERMONT, ASSISTANT PLANNER  

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THE CHAIRMAN: Good evening and welcome to the town of Eastchester Zoning Board of Appeals meeting for March 8th, 2016. We’re going to begin the meeting with the Pledge of Allegiance. Please rise.  
(Whereupon the Pledge of Allegiance was said.)  

THE CHAIRMAN: A couple of points of order. First point, something that I mention before every meeting for the present public and the viewing public, that if you are considering an application before this board, as printed as a condition on all applications, these matters are not heard the first time they’re on. So if you’re considering an application, we meet nine times a year; we do not meet July, August, and December.  
Now what I’m going to do is call the roll to see if you’re here, your matter is going to be proceeding, and I’m going to be taking some of the matters out of order because one of our board members is running late. He should be here within 15 minutes. So let me start with the agenda as it’s listed.  

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Under old business, number 1, 16-05, 35 Ridge Street; is anyone here for this application? Did I say -- 33 Ridge Street.  
Are you here? Yes. And you’re proceeding.  
Okay. We are going to hold the resolution until our fifth member is here.  
Number 2, 16-02, 5 Leticia Road.  
APPLICANT: Yes.  

THE CHAIRMAN: Ready to proceed?  
APPLICANT: Yes.  

THE CHAIRMAN: Okay. So we will hold that until our fifth member is here for resolution and vote. Number 3, 16-04, 33 Orchard Street.  
APPLICANT: Yes.  

THE CHAIRMAN: Ready to proceed?  
APPLICANT: Yes.  

THE CHAIRMAN: Okay, same thing, we’re going to hold the resolution.  
All right. Under new business, number 4, 16-12, 36 Park Avenue.  
APPLICANT: Yes.  

THE CHAIRMAN: And you are ready to proceed? We’re probably going to proceed with  

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that firstly.  
Number 5, 16-11, 41 Rose Avenue.  
APPLICANT: Yes.  

THE CHAIRMAN: Present and ready to proceed?  
APPLICANT: Yes.  

THE CHAIRMAN: Okay. We’ll probably take that second on the agenda.  
Under old business, number 6, 13-36, 504 New Rochelle Road.  
APPLICANT: Yes.  

THE CHAIRMAN: Ready to proceed?  
APPLICANT: Correct.  

THE CHAIRMAN: Thank you. Lastly, number 7, 15-75, 3C Auto Repair; ready to proceed, counselor?  
APPLICANT: Ready.  

THE CHAIRMAN: Okay. Let’s start with item number 4, new business, 36 Park Avenue.  
While you’re getting ready, counselor, I just want to make a note that I have not made a motion yet to approve the minutes from the February 9th meeting. I’m waiting for our fifth board member. I’m sorry to interrupt.  

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Continue.

MR. DE PIETRO: Good evening, Chairman, members of the board, my name is Anthony DePietro, and I represent the applicant, Alfredo Malorano of 36 Park Avenue, and I guess we are here tonight for the limited reason to decide whether this matter will be re-heard based upon the reasons set forth in our letter dated March 1st. I know this matter has not been, I guess, open to the public because notice has not been given, so we are just here for that purpose of deciding whether the board will re-hear the matter. So if there is any questions in light of the reasons we did set forth in our letter, I will be happy to answer them.

THE CHAIRMAN: Thank you, counselor. I've read your submission and it's clear and concise to me, but let me ask the board if they have any questions.

Mr. Cahalin, any questions?

MR. CAHALIN: No.

THE CHAIRMAN: Mr. Nurzia, any questions?

MR. CAHALIN: No.

THE CHAIRMAN: Thank you, counselor.

I'm going to proceed to vote. Okay?

MR. DE PIETRO: That is fine.

THE CHAIRMAN: Mr. Cahalin.

MR. CAHALIN: I vote yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: And I vote yes. Your application has passed fourth. Thank you for your time, counselor.

MR. DE PIETRO: Thank you.

THE CHAIRMAN: Okay. We're going to call item number 2, which is five on the agenda, 16-11, 41 Rose Avenue.

While you're getting ready, Mr. Iannacito, we have your submission and we reviewed it.

We are requesting two area variances this evening. The first is for a front yard setback to the principal building, which is deficient by 6.2 feet or 20.7 percent, and I've highlighted the area in pink here showing the portion of the addition which requires the area variance. The second area variance is for the setback to the front portico, which will be deficient by 4.5 feet or 17.3 percent.

On the site alterations, we will include the removal of paved areas along the side yard and at the rear, which are highlighted in yellow, and the result will be a net decrease in the total coverage on the property in order to eliminate the need for any additional variances.

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

MR. IANNACITO: Correct.

THE CHAIRMAN: -- and the area in pink

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2  nothing. It was very straightforward. I
3  appreciate your time, and while you're standing
4  there, I'm going to make a resolution to close
5  this matter and -- motion to come back --
6  excuse me -- for a resolution at the next
7  meeting; is there a second to my motion?
8  MR. CAHALIN: Second.
9  THE CHAIRMAN: Mr. Cahalin. All in
10  favor.
11  (All aye.)
12  THE CHAIRMAN: Thank you, Mr.
13  Iannacito.
14  MR. IANNACITO: Thank you.
15  THE CHAIRMAN: Okay. I think what
16  we're going to do is I'm going to take this
17  matter out of sequence, I think we're going to
18  move rather than to resolutions to JC Auto
19  Repair. I'm going to hold 504 New Rochelle
20  Road because that application has some
21  amendments to it and it requires a little bit
22  more flushing out.
23  So I'm going to call JC Auto Repair,
24  and while you're getting ready, I'll just
25  remind the public that this is a continuation

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2  THE CHAIRMAN: I have none. It's
3  straightforward. So I make a motion to open
4  this matter to a public hearing; is there a
5  second?
6  MR. CAHALIN: Second.
7  THE CHAIRMAN: By Mr. Cahalin. All in
8  favor.
9  (All aye.)
10  THE CHAIRMAN: Anyone from the public
11  like to come forth and be heard on this
12  application?
13  (No comments.)
14  MR. CAHALIN: I'll move to close it.
15  THE CHAIRMAN: And I will second that
16  motion. All in favor.
17  (All aye.)
18  THE CHAIRMAN: Okay. Go back to the
19  board for comments. Mr. Cahalin?
20  MR. CAHALIN: I have nothing still.
21  THE CHAIRMAN: Mr. Nurzia?
22  MR. NURZIA: No.
23  THE CHAIRMAN: Mr. DeMarco?
24  MR. DE MARCO: No.
25  THE CHAIRMAN: And again, I have

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2 purchased that property in 1998 he did so
3 believing that he could continue to repair
4 vehicles on that property, as had been done
5 previously by A B Wolle.
6 At the last meeting, we focused on the
7 criteria for a use variance, we focused on Mr.
8 Sterling's testimony, appraisal testimony
9 regarding his conclusion that in light of the
10 location of the property, its unique physical
11 constraints and conditions that really could
12 not be used in accordance with existing zoning.
13 We got a couple of specific questions at the
14 last meeting, and that's really all I want to
15 affirmatively cover. Member Cahalin asked us
16 to present information regarding cost as best
17 we understood it to try to --
18 MR. CAHALIN: Counselor, you did a
19 good job.
20 MR. STEINMETZ: What's that?
21 MR. CAHALIN: You hit it out of the
22 park.
23 MR. STEINMETZ: Perfect. I appreciate
24 the question, and I appreciate the fact that
25 hopefully we answered your question.

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1 MR. CAHALIN: You did.
2 MR. STEINMETZ: If we don't, I'm going
3 to summarize it very briefly then.
4 THE CHAIRMAN: Please, counselor, do.
5 MR. STEINMETZ: Say that again.
6 THE CHAIRMAN: Please do.
7 MR. STEINMETZ: We wanted to try to
8 identify -- it's kind of a unique question for
9 a unique piece of property but try to get a
10 sense of the financial impact to my clients
11 were this use variance denied. The Casales
12 purchased the property in 1998 for $500,000.
13 The debt service from 1998 until today for this
14 164 Summerfield has been a $120,000. The taxes
15 paid since 1998 are approximately $400,000. In
16 addition to that, numerous improvements have
17 been made, and we articulated them all and I
18 won't go through them. We listed them in
19 bullets on pages 1 and 2 and really tried to
give you a sense, what did these guys purchase,
what did they install physically on the
20 property. Significantly in terms of business,
two of the bays in connection with this auto
21 repair facility are located at 164, two of the
22

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1 seven repair bays. So my clients believe that
2 if there was a denial here, it would result in
3 serious interruption not only to their business
4 but a 28 percent reduction in their capacity
5 and capability. In fact, as a result of doing
6 some interesting attempts at quantifying this,
7 we believe that the annual lost revenue from
8 this specific area of the property would be
9 $586,000 annually. That's in addition to
10 losing potentially some of the improvements,
11 losing the parts area, which is located, as we
12 identify in the drawing below, which is
13 integral to the property. So, in essence, were
14 this denied, my clients unquestionably, we
15 believe, sustain a very, very serious
16 interruption to their business, financial
17 hardship, and something that they believe they
18 did not bring upon themselves, which is the
19 perfect transition to self-created hardship.
20 What did they bring upon themselves?
21 You all -- several of you in particular -- but
22 you all kind of asked excellent questions about
23 self-created hardship. As lawyers we all know
24 that self-created hardship is a prong of the

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Onge because it's going to be virtually on all fours, he presented the case, presented the facts and it's virtually on all fours. It's not identical but it's really important, and I'm pleased that we found it because getting you to be comfortable with giving us a use variance and not creating a really difficult precedent regarding self-created hardship I think is an important hurdle.

I just want to read one passage from the New York State Court Appeals decision because we put it in our submission and I think it has to be clear in front of all of us and part of the record: Although the board, the Zoning Board, was concerned that any hardship petitioner, an auto repair facility, suffered might be considered self-imposed because he had purchased the property -- like John Casale -- from one had who had been operating an auto repair business in violation of the zoning ordinance, it, nevertheless, concluded that he equitable considerations militated in favor of granting the variance. The board found that petitioner apparently did not have actual

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I was casting aspersions towards your Building and Planning Department and throwing somebody under the bus. I have the utmost respect for Mr. King and Ms. Uhle, and I think you all know that. I can't speak to all of the prior building inspectors since 1998, but I have no reason to believe anybody did anything knowingly wrong, but I think it's absolutely critical, as did the Court of Appeals, that the pattern of conduct from 1998 until today is relevant.

We submitted to you, which Jeff and John came up with really since our last appearance, and we wanted to make clear, a Certificate of Compliance from 1990 and the temporary building permit from 1999. Both of them incorrectly identify this property as being in the RB zoning -- excuse me -- in the GB zoning district. I think there's a pattern of some errors that occurred here. I don't believe they were done knowingly, I don't believe they were done intentionally, but I think it's relevant to give you all, to give the town of Eastchester a sense John Casale has

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Knowledge that the previous owner was operating his business in violation of the zoning ordinance, that the petitioner had invested considerable time and money in the premises and on the property's location sandwiched between an interstate highway on the north and railroad tracks on the south, which made it ill-suited for agricultural or zoning complaint purposes. The board noted further that the property had been operated as an auto repair center for nearly 10 years without objection from the town. Thus, the board resolved to grant a variance but imposed conditions designed to prevent expansion of the non-conforming use. This case is exactly -- virtually exactly our case. The property was purchased by Mr. Casale. He's testified, we submitted Affidavits, it was being operating in some capacity for repair. He didn't think he was buying something that he couldn't use. He actually bought it thinking he could use it. It had been operated here since 1998, and again, at the first meeting in front of this board I got the sense that you all thought that

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sandwiched between an auto repair main garage,
a bakery on the right, it's too small to be
utilized for anything else, we had appraisal
testimony on that, and we truly believe that
you're well-positioned in this case based upon
all the facts, all the circumstances and the
cost information that Mr. Cahalin had us go
through to grant a use variance.

That's all I need to present
affirmatively. I think you've got the
information, I think you have the facts, I
think you have legal arguments. I've got my
whole team here, I've got my clients here, I've
got a host of the folks who work for my clients
here. So if you want to cover anymore
information about cost, about business
interruption, about the folks who work there
and have been working there for decades, about
the community's reaction. We all know we had
and awful lot of people stand up at the
microphone last time, I wish every one of my
clients had the laudable comments and support
of the community as John and Jeff Casale do,
and I'm proud to represent them, and I'm

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pleased to present this matter to your board,
and I would ask respectfully that you grant my
clients a use variance and allow them to
continue their business.

THE CHAIRMAN: Thank you for your
presentation, counselor. What we're going to
do, as a point of order, is I'm going to have
the board ask any questions really specific to
what you just presented because we have the
public meeting, public hearing still open.
What I'm going to ask the public, if you do
want to speak on this, I'm not going to stop
you, you feel free, but if the commentary is
going be along the lines of how wonderful the
applicant is, we've had dozens of dozens of
that, there's been almost nobody that has come
up and said anything bad about this applicant.
At this point, I think it would be duplicative,
abuse of time, but again, if you want to, you
feel strongly about it, I'm not going to stop
you, but I just think at this point we're
really drilling down on those elements of the
use variance that the board had some issues
with.

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This is the affidavit here that Carmine Labriola had made up in 1982 which he indicated that the property adjoining the 166 building to left and right of it were used in those capacities.

MR. STEINMETZ: By referencing the property adjoining it, Mr. Casale and Mr. Labriola are referencing 164, which is the smaller area, the subject of this application.

Mr. NURZIA: Okay. Thank you.

The CHAIRMAN: Anything further, Mr. Nurzia?

Mr. NURZIA: No. Thank you.

The CHAIRMAN: Mr. Miller, do you have any?

Mr. MILLER: I have no questions or comments.

The CHAIRMAN: Okay. Before we open this matter to continued public discussion, I have a very brief comment, which replies to something that you mentioned about your interpretation of the board's reaction. I'll give you the carrot and the stick all at the same time. I thought your submission was

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precisely on point with what my concern was, and I think you've addressed it perfectly as it relates to the use variance.

Maybe I'm thin skinned, but I have to object to this continued reference to errors of the municipality and how it plays into the application. I know you know that there is no such thing as municipal estoppel and there is nothing in the record, that I've seen, that indicates that there were errors either intentional or negligent. So again, maybe because I'm here on behalf of the town, it doesn't mitigate your submission, which was right on point, but I just need to address that.

So continuing the public hearing, would anyone like to be heard on this application?

Please, come forward, give us your name, and speak freely and pithily.

Mr. FORLEY: My name is Tom Forley. I'm a partner Flourish Baking Company, the business adjacent to the garage. I just want to restate what we had mentioned in the letter

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1  first made in order to keep commerce regular.
2  So I think to speak to mistakes being made by
3  the Building Department and so on, I don't
4  think any mistake at all was made when they
5  granted that temporary permit. I think the
6  Building Department was doing what they were
7  supposed to do to keep commerce regular in the
8  town of Eastchester and to keep JC's business
9  regular, which services the town of
10  Eastchester.
11  Thank you for your time.
12  THE CHAIRMAN: Thank you for your
13  time. Would anyone else like to be heard on
14  this application?
15  Please come forward, give us your
16  name, and speak freely.
17  MR. ALTAMURA: Steven Altamura, 14
18  Elba Place, Eastchester.
19  I want to speak in support of the use
20  variance for JC Auto. If the board were to
21  turn down the variance, it would be a
22  disservice to the Eastchester community. Loss
23  of the two bays in the area discussed would
24  result in the following for residents: Loss of
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1  emergency when critically needed to repair
2  their vehicles, loss of sales tax to the town
3  as people will find other repair shops outside
4  the town to do their servicing, longer wait
5  times to get an appointment due to the
6  decreased capacity, increased cost to the
7  residents of the town of Eastchester because of
8  the inability to keep a car on the list while
9  waiting for parts and they will have to double
10  their labor to move it.
11  The feel of the neighborhood, the
12  character of the neighborhood, the appearance
13  of the area will not change as a result of
14  changing the use of the area in question. The
15  commercial space will still remain in that
16  location. The garage, their garage and other
17  owners' commercial buildings directly to the
18  east of the property lining the street will
19  still remain in those locations. Immediately
20  to the west of the site, numerous commercial
21  buildings and numerous auto repair shops line
22  both sides of the street will remain. They are
23  not going to further encroaching into the space
24  that's not already being used like this for
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THE CHAIRMAN: And I vote yes. That application has also been approved five nothing.

Next, number 3, 33 Orchard Street. I have a resolution approving that application as well. Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: And I vote yes. That application has also been approved five nothing.

Okay. So we finalized our old business, we heard new business, we are now on to the last matter on the agenda under old business, 504 New Rochelle Road.

While the applicant is getting ready with the presentation, I just want to remind the viewing public and the public that are here and possibly those who may want to speak on the

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that's number 1. I have a resolution, which will become part of the record, approving that application. Let's take the vote. Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

THE CHAIRMAN: And I vote yes. That application has been approved five nothing.

Number 2, 5 Leticia Road, that's item number 2 on the agenda. I have a resolution approving that application. Now to the vote:

Mr. Cahalin.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Miller.

MR. MILLER: Yes.

THE CHAIRMAN: Mr. Nurzia.

MR. NURZIA: Yes.

THE CHAIRMAN: Mr. DeMarco.

MR. DE MARCO: Yes.

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application, that this application has been heard in many forms and for many, many months now. The applicant has now made an amendment to this application which changes the addition, and also there is a parking element to this application. The applicant is going to go through it, I'm not going to do the applicant's job, but I will mention that there are a couple of elements here that are outside the jurisdiction of this board. This board is not going to hear any issues about hours of service. That is something that I'm directing and referring to the Planning Board, and it's not a matter that we have jurisdiction over. So hours of operation and things like, it's going to be 24 hours, it's only going to be 1 hour or 10 hours, we're not hearing that.

The second matter is that the use is as of right, so it's not something that's before this board. So I wanted to focus our attention and our commentary on the parking, the back-up parking, and on the change in the bump out of the addition.

So having said that, and also

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mentioning that the public hearing continues to
be open because this is an ongoing matter, I
will now turn it over to the applicant to
continue the application, and then after you're
completed, we're going to hear from our traffic
expert, Mr. Greeley.

MS. UHLE: Can I just clarify one
thing?

THE CHAIRMAN: Please.

MS. UHLE: The public hearing closed
and then a new public hearing was noticed
because of the amended application. So you
will have to reopen the public hearing. So it
is a new public hearing.

THE CHAIRMAN: Okay, but the
continuing public hearing that we had on --
this is an amended application?

MS. UHLE: This is an amended
application. I think you're looking at the JC
Auto where it says, continued public hearing.

THE CHAIRMAN: Actually, I haven't
gotten to that stage in my life, I could still
see what I'm looking at. It's an amended
application.

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MS. UHLE: Yes. Not that it's a big
distinction, but --

THE CHAIRMAN: That's fine.

MS. UHLE: -- you had closed the
public hearing and because the applicant opted
to amend the application in order to minimize
the extent and number of variances, they were
told that they needed to re-notice a new public
hearing and that's what they did. So this is a
new public hearing on the amended application.

THE CHAIRMAN: Thank you, Mrs. UHle.

MR. CAHALIN: Do we have proof of
notice?

MS. UHLE: Yes.

MR. CAHALIN: Okay.

THE CHAIRMAN: Okay.

MS. MARTIN: Thank you. Good evening,
board members. My name is Jillian Martin. I'm
the construction manager for Chestnut
Petroleum, which is the applicant for this
piece of property, which is 504 New Rochelle
Road here in the town of Eastchester.

If I could have the monitors, please.

Can you hear me if I speak into the microphone?

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Proposal has an addition of 346 interior square feet and allows for some more landscaping where the asphalt currently is between the building and that property line, which now has some landscaping.

Conceptually, this is a layout that will be in consideration as we move forward with the building design. As you can see, most of the addition is put directly into cooler space. The plan is to have walk-in coolers that house sodas and juices and milk and eggs and those sorts of things, and that space will be utilized to be able to store and stock and sell those items.

As I mentioned, these are the variances that we are pushing for, and we were able to remove two variances. One is the separation distance from the single family residence district. The other is for the parking on that same side, which was removed because it was determined to be an unnecessary variance due to a preexisting non-conformity. This is our currently proposed site.

If there are any questions, I'm happy to field those.

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MS. MARTIN: Sure. The variances we're asking for are the parking and the backup aisle. As the site currently is utilized, there is no delineated parking. So we're making it better than it currently is. The site as it exists if we were to try and meet the standard without the addition and just get to that parking limit, there is no space on the site as it exists. So we are asking for that variance so that we can better utilize the space, better serve everyone, make it safer for the pedestrians crossing and everybody parking and utilizing the gas station. There is no physical way to meet the requirements as it currently exists. So that is that. For the backup aisle, again, right now everybody is parking haphazardly. By designating the spaces, we now designate that parking backup aisle. The site is just clearly not large enough to accommodate the required 21 feet, but by putting the parking as it is, and we went through many iterations as to where the parking would be and how it would be accommodated, and I believe the traffic consultant could probably do that.

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THE CHAIRMAN: Great. I'll have a pass at the board to ask questions. I just want to clarify, I guess for the viewing public, that the addition is in lieu of actually the trailer; the trailer is going to be removed?

MS. MARTIN: Correct.

THE CHAIRMAN: Thank you. Questions from the board; Mr. Cahalin?

MR. CAHALIN: None right now.

THE CHAIRMAN: Mr. Miller, any questions?

MR. MILLER: Not at this point.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: Yes. With this current version of the plan, you kind of go into details with the specifics of the plans and drawings and things like that. Just take a step back and just kind of walk me through why we should grant the variance. Go through the five point test as briefly as you can. Just kind of take a step back and just kind of of focusing on the five point test. I mean, in the sense --

MS. MARTIN: Could you clarify as to which five points you want me to hit?

MS. UHLE: In their original submission awhile ago, they went over each of the variances test by test. I think the applicant probably doesn't have that in front of her right now.

MS. MARTIN: I do not.

MS. UHLE: We could give you the list of those if you would like.

MS. MARTIN: I believe that was before my time on this project. I apologize. My apologies.

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1  THE CHAIRMAN: Let me follow-up on something, Mr. Nurzia, before I get to Mr. DeMarco, that is as a point of clarification, Mrs. Uhle, the current parking is legal non-conforming; is that correct?

7  MS. UHLE: Yes, it is. But, however, that space is legal non-conforming based on the existing small convenience area and the two service bays. Once the service bay use discontinued if the applicant wanted to expand the convenience store into those service bays, even without doing any kind of expansion to the building a variance would still be required because the parking requirements for retail use are greater than what the parking requirements for the service bays were. So it's only legal non-conforming with regard to the original use as a small convenience and service area. Even if they didn't do the modest increase in floor area, they would still need a variance from -- actually, they would still need the same two variances that they need now.

24  THE CHAIRMAN: That's what I'm driving at. I just want to be clear on that.

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1  MS. UHLE: Yes.

2  THE CHAIRMAN: Thank you. Mr. DeMarco?

5  MR. DE MARCO: No questions.

6  THE CHAIRMAN: I don't have any at this time. Before we make a motion to open the public hearing, I would like to hear Mr. Greeley give us his opinion on the traffic flow and other matters pertinent to the traffic.

11  MR. GREELEY: Good evening. Philip Greeley, Maser Consulting, professional engineer, principal with Maser, the town's traffic consultant. We received a copy of Ms. Martin's application, which was submitted February 22nd, which was the subject of her summary here.

18  In terms of the history of our review, as you know, we were involved with the review of the initial application before it was amended. Their plans have incorporated many of the recommendations in terms of traffic circulation to clean up the traffic circulation and the parking on the site, which she has summarized in terms of where those spaces are.

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1  Relative to the parking, their previous plans had some additional parking spaces. For example, on the north side closest to the entry driveway there was another parking space in that area. That was eliminated because it was felt it would be better for traffic entering not to have that space. So for a traffic reason we got rid of one parking space. The other item in terms of parking on the site, the plan shows six spaces, there are -- for this type of use with the convenience use, we find that many people do park, they get gas, they park, and then they use the convenience store. So when we review a plan, that's a consideration in terms of parking usage on the site.

18  The other items, which I don't believe she covered in detail, but near the building sidewalk area was pulled back to make sure that vehicles could pass someone stopped at the pump island. Also, the landscaping in kind of the bottom right-hand corner of the site plan was another area where there was a parking space which was removed to eliminate vehicle conflicts but also now it's shown for landscaping enhancements.

7  In terms of traffic generation, going back even the original application that we reviewed back in October 2014 we had presented to the board a memorandum that looked at the traffic currently at the site. We actually did counts in September of 2014, and in that letter we actually spelled out the different traffic levels that would occur; re-occupancy of space; using the space; taking out the bays; even though it's not permitted now, reusing the bays because the current operation at the time of our traffic counts they weren't being used. So we did spell that out in our October memo as well as all of the circulation and parking modifications which are now worked into the plans.

20  In terms of the additional square footage, I think the application is around 350 square feet, but that area is replacing the trailer, which is about 150 or 160 square feet I believe today, which is used for storage. So that will be removed. So really the net in

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1 terms of square footage, even though the trailer is being used, the net is probably a lower square footage. In terms of the additional traffic generation, which we're talking about here, this site currently during peak hours, and, again, to kind of give you the perspective again, on New Rochelle Road on an average day there's approximately 14,000 vehicles per day passing this site of New Rochelle Road, that's over a 24-hour period both directions. This site during peak hours and in a one hour period those numbers are somewhere around 1300 to 1400 vehicles an hour passing this site. So in the morning I think it's around 1400 vehicles that pass this site. This site currently is generating approximately 25 to 30 vehicle trips in an hour. That's 25 in, 30 in and the same number exiting within a one hour period, and our focus is usually on one hour periods in terms of traffic analysis. With the expansion, that number would be expected to increase just because of the increased convenience use and taking into account the additional square footage would account the additional square footage would be.

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1 increase somewhere between 35 to 40 trips in an hour period in, the same number. Interestingly enough, in those peak hours if you had to reoccupy the service bay areas in terms of their usage, there would be an increase over what's there today but not that level. So I think in terms of the amount of additional traffic, it's not significant in the whole scheme of what's happening at this site.

In terms of the circulation improvements are significant in terms of being able to limit some of the conflicts that occur at the existing driveways, and there's also a crosswalk modification that's part of our recommendations that I believe would be addressed in the site plan.

So I think those are the areas that we touched on in our various memos starting back in October of 2014, then we had one in February of 2015, but that's kind of a synopsis of what's there. I would be happy to answer any questions.

THE CHAIRMAN: Thank you, Mr. Greeley.

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1 our traffic expert, Mr. Greeley?

MR. CAHALIN: No.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: None.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: No, thank you.

THE CHAIRMAN: So just to, I guess, be pithy and synopsize your findings as it relates to traffic, based on the modifications and additions to the original application coming forth today, you don't see any statistical increase in traffic?

MR. GREELEY: That's correct.

THE CHAIRMAN: Mr. Greeley, I thank you for your time.

MR. GREELEY: Thank you.

THE CHAIRMAN: Okay. I would ask, if you don't mind, if you could stay.

MR. GREELEY: Yes.

THE CHAIRMAN: In case anything comes up with the public, you're the expert. Thank you.

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2 questions as well?
3 MR. PARISI: I beg your pardon.
4 THE CHAIRMAN: This is not before us tonight. This is a variance application.
5 MR. PARISI: That's part of the variance.
6 MR. TUDISCO: Actually, it's not.
7 MR. PARISI: It's not?
8 MR. TUDISCO: No, it's not. This is about an area variance, this is about parking variances. There are various other levels of site plan approval should the project go forward, but there are specific variances of the zoning law that are at issue tonight and that's what's being addressed.
9 MR. PARISI: All right. Another question I have: What about when a petroleum truck pulls into that area, how is that truck going to get in when there's vehicles around?
10 If you have cars in the way, that truck has to maneuver back onto New Rochelle Road, back into the property of the garage where the gas station is; how does that work and how does that protect people on New Rochelle Road that DINA M. MORGAN, REPORTER

55

2 children and for our taxes and for us that live there. These are the questions that I propose.
3 If it was taken out of content, I do apologize.
4 THE CHAIRMAN: You needn't apologize.
5 I just want to be clear on what our roll is here on this matter.
6 MR. PARISI: In the past, stuff was done and there wasn't variances approved going back when they put the pumps in and they put that piece of tower around the overhang. Was there anything approved on that?
7 THE CHAIRMAN: I can't speak to that.
8 I can only speak to what is before us. The one thing you might have learned from listening to the history is this now has carried over three calendar years, and the application has changed dramatically through the efforts of the board and their traffic expert. So I really would like to drill down on the points that are before the board, and, again, I would like to hear the public's opinion in a declarative way about what their thoughts are.
9 MR. PARISI: One more question: Where the trailer is parked in the back of the DINA M. MORGAN, REPORTER

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2 building, has it been measured from the building to the property line where there is a house? Have they measure that part where that trailer is in the back?
3 THE CHAIRMAN: Has the applicant measured it?
4 MR. PARISI: Yes.
5 THE CHAIRMAN: I wouldn't know, and, again, it's not relevant for this application.
6 There's an application before us for the additional structure in the rear. The trailer, again, is an existing condition, and the parking and the backing up of the exit lane. So that's what before us.
7 MR. PARISI: Just keep in mind too about the petroleum truck.
8 THE CHAIRMAN: Yes. We're going to have our expert speak on that after the public is finished. I appreciate that. That's a very valid point.
9 MR. PARISI: Thank you for your time.
10 THE CHAIRMAN: Thank you for your time. Is there anyone else ready to speak on this application? Sir. DINA M. MORGAN, REPORTER
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1. MR. MOSCHETTA: Steve Moschetta, 19
2. Archer Drive.
3. Just a couple of points on the traffic
4. study. If the average number of trips -- once
5. the station is open, if the average number of
6. trips is doubling --
7. MR. DE MARCO: Did he say it was
8. doubling? Is it going from 35 to an additional
9. 35 or is it going from 35 to 40? That was
10. confusing to me as well.
11. MR. GREELEY: The current volumes are
12. at 25 to 30 in an hour, going to 30 to 40 in an
13. hour.
14. THE CHAIRMAN: So it's one third, give
15. or take. Okay.
16. MR. MOSCHETTA: All right. So it's
17. still a significant increase. And if the
18. parking spots are 50 percent deficient than
19. what was is required, where are those cars
20. going to be?
21. THE CHAIRMAN: Well, actually, that
22. was the point I was clarifying with Mrs. Uhle.
23. They're currently deficient now. So to give
24. you some context, in older areas of our town
25. DINA M. MORGAN, REPORTER

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THE CHAIRMAN: Thank you for your time.

THE CHAIRMAN: Thank you for your time. Sir.

(Applause.)

MR. URBINA: Good evening. My name is Julio Urbina and that gas station is in my backyard. They haven't reached out to Chester Heights, but I wouldn't expect them to because they don't shovel their walk and clean up their garbage any way. But I digress. The matter before us is the 6 parking spaces rather than the 12. I would imagine that the rationale behind requiring 12 for this kind of a square footage is to ensure that traffic gets off of the street so it doesn't impede traffic.

Bringing it down to six means that probably the behaviors of some of the drivers that is currently being exhibited is going to continue, which is to just jamb their cars wherever. We have also some issues where people if there isn't an appropriate place to park, they'll park on that apron that's located on the east side of the station, which blocks the exit out of and onto Hillcrest Road. Speaking of which,

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people buying gas there and everything else, not even making an attempt to engage the citizenship of our neighborhood, which is all our neighborhood in Eastchester.

I guess one of the last things I would like to say is if you lived behind this gas station and you were going to have increased traffic and increased flow, and I know the hours of operation are not in your purview but it was opened up and I did see it on the website that that was going to be asked to go to midnight rather than 11:00, and if I'm wrong with that please clarify, but what is that all about? Nobody in the neighborhood there is going to be buying anything at 11 or 12:00 that I'm aware of. I don't think they would be if it was in your neighborhood.

So I would just like the board to think about as members of Eastchester if it was in your backyard and these traffic issues were brought up and the other items that I mentioned, including not engaging the neighborhood association, how does that factor into your decision? I'll just leave it there.

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THE CHAIRMAN: Before you leave, I have a question of you because you're the person closest and you observe the traffic flow. We worked and put a lot of time in with our traffic expert and the applicant in actually changing the application to provide for delineated spaces, and I think in one of the reincarnations of the application I made the comment that if there are designated spaces as distinguished from the way it is now and

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they're taken, I'm not stopping there. What do you find now in terms of the parking; do you find it to be haphazard, people are just parking anywhere and running in?

MR. URBINA: I do see that. The concerns that I have -- I mean, I think certainly it's an improvement that --

THE CHAIRMAN: That's what I wanted to ask you: Do you think that the current plan is an improvement?

MR. URBINA: I think it's improvement. I don't think it's enough. My concern also, if I look at -- you know, they have a similar property over on Lincoln in Pelham, and I pass by there every morning when I go to work and, you know, people -- and I know that this was, you know, proposed by the owner some time ago, to count the gas station pump spaces as parking spaces, you know, in this -- I don't think it was too visible there on the monitor but on this plan here they had kind of like these ghost images of the cars and that's what the mornings look like over at Pelham. When you've got all of those cars in those spaces by the

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pumps and the six and you've only got one place to get out, people are just going to park wherever they want and that's kind of what's happening now because there aren't any lines. Again, I think that adding the lines and adding delineating parking spots will improve the situation, but it's a pretty bad situation to begin with, and I certainly don't think it's going to solve any of the issues that we're currently having there.

THE CHAIRMAN: Mr. Greeley, also if we can address when you get back up the issue of the new topography and landscaping and whether that may prevent this haphazard parking anywhere because you want to get in, get something and get out quickly. So --

MR. URBINA: And if I can also ask you to ask your traffic expert to also perhaps address the issue when people come out of the ramp on Hillcrest, you know, onto Hillcrest Road to make that left to go onto New Rochelle Road, there are often times folks that, again, are trying to get onto Hillcrest Road, they block Hillcrest -- I mean they try to get onto

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New Rochelle Road, they block Hillcrest Road, and at least three or four times a week I'm sitting there by that would be the northeast corner of that property where the fire hydrant is waiting for those cars to be able to get onto New Rochelle Road before I could drive up so I could get into my house. I don't know if he's observed that during his times, but I know that I observe it regularly, and I experience it regularly, and I think that that's something that needs to be taken into consideration when we're looking at the entrance and exit pattern on Hillcrest Road.

THE CHAIRMAN: I mean, this is very important to the board to hear this because it's more than anecdotal, it's actually what's going on. I mean, we're going to get further into the public hearing on this, and I could tell the public that I have not decided one way or the other, but one of the things and why we put so much time in on this is that sometimes commercial realities change, and I drive going home every night on Route 22 and I look at a service station that has dead bays and it looks like

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like just a zombie use. My concern is that sometimes there are unintended consequences. Sometimes there's an old expression be careful what you ask for, you may get it. I want to make sure that this board looks at this Rubik's cube from every angle to make sure we make the proper decision for those types of reasons, because seeing dead bays in the middle of a mixed use area and what happens a week, a month, 2 or 10 years thereafter could also have significant ramifications for the neighborhood.

A gentleman earlier said, you're backyard how would you feel about it. So I appreciate the time and thoughtful way you put into it.

MR. URBINA: And if you would like to, you're more than welcome to have coffee with me in the morning around 7:30 before I take my kids to school, and I'll challenge you to get them to school on time.

THE CHAIRMAN: Thank you for your time and your offer. Yes, please, come forward.

MS. ROSAMONDA: Good evening. My name is Pat Rosamonda and I live diagonal to Mr. Urbina. I live approximately 500 feet from the

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said gas station. My home is the first home on
the Mount Vernon line, that's how close the
property lines are.
I reviewed the previously submitted
pattern or plans with Margaret, who was kind
enough to sit down with myself and my sister to
go over those plans and explain the nature of
the plan. I have also received these new and
enhanced plans and, quite honestly, all of the
issues that have been brought before you are
many of the same issues that I have here.
First and foremost is the traffic
issue surrounding the street, most of which are
Mount Vernon streets. Okay. Tomorrow I will
be going to Mount Vernon City Hall to find out
what our legal rights are as Mount Vernon
residents to possibly put some sort of
amendment to this because listening to the
traffic study, and I agree with, as I mentioned
previously, previously mentioned issues, if
this traffic is increasing, most of which is
going to be coming onto Hillcrest Road.
Now I have a question for the project
manager: The new and amended proposal, does
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you've got a school bus, you've got children.
This is a major safety issue. You cannot see
around that left-hand side. God forbid we have
a snow storm, the snow is piled at least 5 feet
high that we have to wait until the town comes
and removes it, therefore, once again creating
an additional hazard.
Now I realize that no one wants to
address the additional hours --
THE CHAIRMAN: It's not that we don't
want to address it, we can't. We're not
empowered to effectuate any policy over that.
MS. UHLE: I'm just going to clarify
what the applicant is proposing now is 6 to
midnight. If it proceeds to the Planning
Board, the Planning Board will address that.
MS. ROSAMONDA: Well, my philosophy is
with the CVS that opened in our area
approximately about 18 months ago, their hours
of operation only go until 9 p.m., CVS is more
of an essential operation than a convenience
store. So, therefore, why would we want a
convenience store open until 12:00 at night,
therefore, opening up the possibility of
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that exit all of your new and incoming traffic
onto Hillcrest Road, because I do --
THE CHAIRMAN: You know, I would
rather you address the board with your
comments. The applicant is going to come back
when the public hearing has been completed and
address any of these issues. She's going to
take some notes. So why don't you just tell us
what your question is, please.
MS. ROSAMONDA: My one question would
be: Is the exit out of the gas station now
only exiting out onto Hillcrest Road where
currently it's exiting out onto New Rochelle
Road and Hillcrest, therefore, increasing the
traffic into a residential area?
THE CHAIRMAN: We could also have our
traffic expert discuss that when he comes back
up. So continue. I'm sorry.
MS. ROSAMONDA: Again, concurring with
Mr. Urbina, the traffic in the morning or any
time of the day to get out of Hillcrest Road
you literally need to have a policeman standing
at the corner to direct you out to make a
left-hand turn. You've got the Bee Line bus,
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additional crime in the neighborhood, which has
been preserved over many, many years? Chester
Heights is one of the finest areas to live in
and many of our neighbors have been there 40
and 50 years. Again, it was mentioned the 250
7 to 300 signatures that were collected to oppose
this project. Many of our neighbors are senior
citizens, they oppose the project but they will
not come out to a meeting because of their age,
because of their frailties, whatever the case
may be.
In summing this up, again, I concur
with what someone else has said, you're putting
our neighbor in jeopardy of losing its
residential quality and appeal, as well as
preserving the safety of our homes and our
families. I respectfully ask you to put
yourself in our shoes in our neighborhood and
would you want this in your neighborhood?
Thank you.
THE CHAIRMAN: Thank you for your
time.
(Applause.)
THE CHAIRMAN: Yes, sir, come up.
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1
2    MR. DAVES: My name is Brian Daves at
3    7 Archer Drive. I want to raise a couple of
4    points and to clarify a couple of things that
5    have been said earlier.
6    I am obviously not a traffic engineer,
7    but I am actually a social scientist, and I do
8    know that a 30 percent increase of -- a
9    comparison of two things when there is a
10   30 percent difference it is statistically
11   different, that if you were to -- because of
12   the amount of traffic that the traffic engineer
13   said was going to be increased, he said that
14   there might be somewhere between a 30 or 25 and
15   30 or 30 and 40, whatever those numbers are,
16   but those numbers are large enough that if you
17   were to submit them to a statistical test, that
18   they would be seen as being a statistical
19   difference. That's the first point.
20   The second thing is that the traffic
21   study that the traffic engineer did was in
22   2014. Subsequent to the traffic study that had
23   been done, I don't know if it's the county or
24   the town had off of the -- off of the exit ramp
25   from the Cross County Parkway in order to be

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1
2    able regulate traffic in a safer manner put up
3    barriers so people were not trying to drive on
4    the furthest right-hand side into potentially
5    parked cars that were further -- closer to the
6    Cross County Parkway. This has then created a
7    single lane of traffic. So that when you are
8    going to potentially have more traffic as a
9    result of the increased traffic that's going to
10   be going into the gas station because of the
11   convenience store, you're going to actually
12   have an even greater effect because -- in part
13   because the study had been done prior to this
14   alteration of the traffic flow that was taking
15   place on New Rochelle Road, and this is
16   immediately after one exits from the Cross
17   County.
18   The second is, if you were to look at
19   the designs that had been presented by the gas
20   station, if you take a look at the manner in
21   which that parking is going to take place, it
22   is not outside of the realm of being
23   conceivable that because it's angled spaces
24   that what's going to end up happening is that
25   as traffic is trying to enter the gas station

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1
2    and into the parking lot and these cars are
3    trying to back out in order to get in, it's
4    going to create a pretty significant backup off
5    of that ramp onto New Rochelle Road.
6    I would repeat also some things that
7    have been said just a short while ago about
8    what is happening off of Hillcrest. I
9    regularly leave to go to work off of Archer
10   Drive making a left onto New Rochelle Road some
11   time usually between 7 and 8 o'clock in the
12   morning. I cannot imagine what it's going to
13   be like trying to get off of either Lockwood or
14   Archer or Parkview onto New Rochelle Road with
15   even an additional 10 percent of traffic
16   flowing during that time, and I would imagine
17   that the bulk of the traffic that's going to be
18   produced in and out of that convenience store
19   is not going to be spread evenly across the
20   hours of the day but is more likely going to be
21   increased during the hours in which people are
22   going to to and from work wishing to get coffee or
23   a sandwich or something in either direction,
24   and that if you were to take a look at the
25   average increase in traffic that's going to be

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2  what it's doing. Instead, there has been no
3  outreach whatsoever. There has been no attempt
4  at trying to try to figure out a way in which
5  the community, which you've heard from a number
6  of people is generally pretty tight knit, and I
7  would be concerned if I was seeing a large
8  number of members of the community all standing
9  and saying, yes, so far I have yet to hear
10  anybody step forward from the community and say
11  they are in support of the application.
12  So in sum what I would like for you to
13  pay attention to is:
14  One, whether or not there is actually
15  a statistically significant difference between
16  the traffic pattern that is going to be created
17  or not.
18  Second, to focus attention on what's
19  going to happen during peak hours of traffic as
20  a result, and whether or not those changes in
21  traffic patterns are going to be evenly
22  distributed during the day or whether or not
23  it's going to be a potential problem.
24  And third, to concentrate on the
25  impact that the changes in Eastchester -- I'm
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2  sorry, on New Rochelle Road's traffic flow as a
3  result of the safety changes that were made off
4  of the Cross County.
5  And then finally, take into
6  consideration what the responsibility of the
7  owners of the gas station should have been to
8  the community in which they exist by trying to
9  reach out and to try to figure out a way in
10  which buy-in -- to achieve buy-in over a very
11  long period of time and did not. Thank you.
12  (Applause.)
13  THE CHAIRMAN: Thank you for your
14  time.
15  MR. TUDISCO: Mr. Chairman?
16  THE CHAIRMAN: Yes, counselor.
17  MR. TUDISCO: For those who are here
18  and also for those watching at home, I can shed
19  some light on one of the issues that was
20  raised, and that was the issue about the
21  balusters that are now in that lane. As the
22  traffic prosecutor in the town, there is a
23  parking lane on New Rochelle Road and there
24  were a number of vehicles that were driving the
25  parking lane and in order to preserve those
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So those are my points. I don't know if you have any questions. I thank you for your time and listening to my concerns.

THE CHAIRMAN: Thank you for your time. Anybody next? Thank you.

MS. MILE: I'm Susan Miele. I live on Archer Drive. I spoke at the previous meeting. First of all, thank you for your service. I appreciate you giving us all your time and attention.

First of all, I just want to establish that I am director of the Bronxville Chamber of Commerce, which I mention just to establish that I am pro business. I advocate for businesses in Bronxville. I go before the Zoning Board on their behalf to request variances in support of our business members, but were this my jurisdiction I would not go to bat for this applicant, because I would only stand up for businesses whose request makes sense for the community, and in this case it's one business versus the entire community. I would not go to bat for them at the Chamber of Commerce.

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lanes than there really are. For instance, I was parked -- not parked -- I was stopped at a red light on New Rochelle Road at Parkway Plaza and within a few seconds there was a car stopped on my left and a car stopped on my right. There were three cars in a row in a one lane street. Because it's so wide, people just do what -- wherever they fit, they go.

Sir, you were mentioning earlier about how people were driving over the painted shoulder because they could, and for some reason New Rochelle Road in that section of Chester Heights brings out the worst in drivers. People swerve, people cut people off, people drive aggressively to be first, next, best, whatever, and then they zoom past Chester Heights into Pelham or New Rochelle. It's not us, it's the people passing through who drive aggressively and put others at risk, and until those poles, whatever you called them, were erected, people drove right over those stripes with complete disregard for traffic laws and safety. I think that until the town wrestles with these issues and does something about the

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actual width of the street and how it's managed and policed, which it isn't, nobody says, oh, this is one lane, you can't make up your own lane, I think this is going to cause problems for any kind of proposal of this ilk.

I also want to address a comment that I believe one of the trustees made at two prior meetings and since it came up twice, I just want to speak to it. I'm not sure who it was, but one of you, I believe, made a comment that because there was always a business district here we should have known when we purchased our homes in Chester Heights, that developments like this may come up and we should just sort of, you know, expect it. I'm paraphrasing of course. I just want to point out that the reason we have you guys is to protect us from those kinds of changes. I don't think this is something that we should have to live with just because an applicant desires these variances.

I think we need to look at the fact that they're asking for significant variances and uphold the laws that protect us from any danger that they may subject us to or harm or

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inconvenience or whatever it may be. I hope you're hearing us speak in the numbers that we're speaking. We have one business applying. I have not heard anybody else get up here and say, we want this, this is good. One person versus hundreds. I hope you'll take our comments to heart. Thank you.

(APPLAUSE.)

THE CHAIRMAN: Anyone else like to be heard on this application? Please.

MR. MOSCHETTA: Steve Moschetta, 19 Archer Drive. I just wanted to address something that you mentioned earlier about zombie or empty bays.

THE CHAIRMAN: Yes. I was speaking very topically and what the kids like to hear. I used the word "zombie." I wanted to seem hip and with it.

MR. MOSCHETTA: For lack of a better term, a zombie gas station.

THE CHAIRMAN: Right.

MR. MOSCHETTA: The owner prior to this kept his gas station and this facility in pristine condition. Quite frankly, since the

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gas station was sold, I think this has been a conscious effort on Chestnut to have the property deteriorate to the point where the community says, oh my God, we don't want this anymore so please do whatever you need to do to clean it up. So I really believe what happening here is we're rewarding Chestnut for not being a good corporate citizen. That's all I really wanted to say on that point.

My other -- actually, I had one more point to make, which is: Why can't they remove a set of pumps; why do they need two sets of pumps on that space?

THE CHAIRMAN: To address your point about rewarding, we're not rewarding anything. The applicant has been here for almost three years and the board has made them jump through the hoops that the board --

MR. MOSCHETTA: And I think they should continue to jump through the hoops, because I don't think they should be rewarded for their neglect.

THE CHAIRMAN: And I think to tie in your commentary and the prior speaker's

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this person, and as I honestly can say I cannot remember who it was, had said that this company, this is what they do, they buy gas stations and they switch them over into convenience stores. And also, this person had said that they have had a lot of complaints in all these other places that like garbage, snow removal, and everything they do not keep the places up. So has anybody looked into this corporation that has bought this place? Mike Innella, who had the gas station before, it was just a lovely neighborhood place. We always have had two wonderful service stations. Everybody loved John. Everybody loved Mike. You know, that’s the way it is now. So I have no idea about it and, as I said, it’s hearsay because I cannot remember who it was.

THE CHAIRMAN: I understand. I appreciate your time. Our attorney would like to speak on that issue.

MR. TUDISCO: Part of my job up here, I don’t have a vote or a voice in what the board does, I’m essentially the legal referee. In preserving the record my concern always is DINA M. MORGAN, REPORTER

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the people that are listening at home and I want to make sure that they’re getting accurate information or the reasons why the board may need to narrow the focus of what is being addressed tonight, and in terms of the corporate solvency in terms of a perspective applicant, that really is outside the application. The board has a legal process that it has to follow and has to do so according to the law.

There was another comment that came up a number of times about a petition, and certainly the board interested in your comments and that are important, but I just want to make sure legally this is not about how many people versus how many people, this is not a quantitative analysis in terms of a voting process. The board has to look at the legal tests and they have to apply the application that is before it and they have a legal duty, and they are certainly going out of their way to respond to the comments and hear the comments and you all have a right to make them.

I just want to be careful for people that are DINA M. MORGAN, REPORTER

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watching at home in terms of some of the side issues that have been raised tonight. We all understand your concerns, but for legal reasons we have to stay focused on the issue that’s before the board.

I’ll be the bad guy on that.

THE CHAIRMAN: Thank you, counselor.

Lawyers generally are. Would anyone else like to be heard on this issue? Please.

MR. SALIERNO: Carmine Salerno, 12 Archer Drive.

THE CHAIRMAN: Thank you.

MR. SALIERNO: The evolution of business I think everyone is in favor of certainly, but to the cost of the safety of the citizens in the area is something else. Having lived there for nearly 35, 36 years now, I’ve seen the traffic just increase significantly.

Anything that we could do to decrease it is what we should be looking at and not necessarily increasing. Many times when the traffic is backed up on the Cross County Parkway, those traffic studies, I don’t know if they took that into consideration, but that DINA M. MORGAN, REPORTER

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happens too often and to compound it with the police pulling over people around the prime time, with the Bee Line Bus that goes through there the traffic volumes, I think, are significantly more, and I think it will have a significant impact on the traffic and the safety of the citizens of that area.

I beg you to do something about this. Anything that could reduce the traffic is certainly welcomed. Anything that increases the traffic is not welcomed by our people there.

THE CHAIRMAN: Thank you for your time.

(Appause.)

THE CHAIRMAN: Would anyone else like to be heard? Please.

MR. SCALZO: Tom Scalzo, 24 Central Drive. Just to the counselor’s point, if we’re following the letter of the law, why are we even hearing this? By their own admission they’re not within the confines of the law so --

THE CHAIRMAN: That’s why the board DINA M. MORGAN, REPORTER
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1 exists. We're a Zoning Board of Appeals.
2 MR. SCALZO: I understand that, but if
3 the law says they must have 12 spots and they
4 have 6, where is the gray area that --
5 THE CHAIRMAN: I'll explain it.
6 People come before us because they're asking
7 for something that's at variance with the law.
8 We are empowered to hear those applications.
9 If everyone had to abide by the letter of the
10 law, there's no reason for us to exist and a
11 good portion of the town wouldn't exist either.
12 MR. TUDISCO: As a matter of fact, the
13 board has an obligation to hear those
14 applications based upon what the law dictates.
15 MR. SCALZO: So the application has
16 been heard and obviously we heard from
17 everybody else about it, so what's the deciding
18 factor?
19 THE CHAIRMAN: I don't have enough
20 time to explain it. We have to apply the tests
21 that the applicant has to meet in terms of what
22 an area variance is and that's what these last
23 three years have been all about.
24 MR. SCALZO: But if it's taken three
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2 years, obviously there's an issue with it.
3 THE CHAIRMAN: Mr. Scalzo, again, I
4 don't mean to cut you off, but we're not here
5 to answer questions and get into a procedural
6 back and forth about what we're doing and why
7 we're thinking it. If you want to be heard, be
8 declarative on the points.
9 MR. SCALZO: Well, I do have a safety
10 issue.
11 THE CHAIRMAN: Please.
12 MR. SCALZO: If you look at the
13 construction manager's diagram here, you have a
14 crosswalk right where people will be making a
15 right into the gas station, which is also right
16 where the people will be backing out of the gas
17 station. That triangle if things going on
18 there cannot possibly be a safe issue. So, I
19 mean, there's got to be a better way. They
20 could move the pumps. There's other things
21 they could do. It looks like they want to do
22 what's expedient to them and cost effective
23 without any regard to the community. So if
24 they're that serious about it, let them invest
25 some money and do some other changes. Thank
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2 you.
3 THE CHAIRMAN: Thank you for your
4 time.
5 (Applause.)
6 THE CHAIRMAN: Would anyone else like
7 to be heard? Please, come forward.
8 MS. BOYER: Hi, my name is Gail Boyer.
9 I live at 2 Archer Drive. I think that in
10 hearing the meetings and all of the, I guess,
11 disputes, I ditto everything that everyone is
12 saying here, but I think what it comes down to
13 is we need to make the right decision, and the
14 right decision is really simply all these
15 people have lived in this community for more
16 than 25, 40 years, traffic, safety are major
17 concerns. My driveway exits on New Rochelle
18 Road. I cannot get out of my driveway in the
19 morning between 7 and 8:30 without waiting
20 there for at least five minutes.
21 So the only thing I request is please
22 think about if this was your neighborhood. No
23 one has ever come to say that we want this to
24 happen in our neighborhood. We accept the fact
25 that we have a gas station. We accept the fact
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right by the crosswalk for the Bee Line buses.

THE CHAIRMAN: Yes, we heard this this
evening.

MR. PARISI: Is he going to address
that?

THE CHAIRMAN: When the public is
completed. Yes, he is going to address all the
public's points when the public is done.

MR. PARISI: All right. Thank you.

THE CHAIRMAN: Thank you. Anyone
else? Seeing no one -- oh, sorry. Please.

MS. MULQUEEN: Denise Mulqueen, 13
Alta Drive. I definitely did not plan on
speaking. I just wanted you to know traffic in
the morning going to work -- I have a traffic
light on my corner -- it takes me three lights
to get out of my street. So just because the
other streets don't have lights -- just because
I have a light, it doesn't make it better. So
if you think putting a light over where these
people can't get out helping traffic that way,
it's not going to help.

Also, walking. You can't walk your
to the park. There's only one crosswalk

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and that crosses that gas station. So they're
coming either here or zooming in or zooming the
other way. They're going through lights. It's
very unsafe. So we don't need more traffic.

Thank you.

THE CHAIRMAN: Thank you for your
time. Anybody else? Please, come forward.

MR. DECHANGE: Good evening. My name
is Mike Dechang. I live at 17 Alta Drive. I
know I spoke to the board earlier this year in
opposition to this project. There is also one
aspect I wanted to comment on this evening is
in the rear of the property, which directly
impacts my home because we abut right against
it, there's three compressors that I notice
that are outside. Compressors that are going
to be running coolers. Compressors got to run
24/7. That is a noise level that is going to
impact my property, because I'm right in the
back there, and I'm out in my yard and my
windows are open all summer long. That is an
additional concern that I have that I wanted to
bring forth to the board as well, in addition
to the comments that my neighbors have told the

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the changes. I'm happy to take those back. As far as meeting with everyone else and giving you your chance to have a say, I believe legally that is what public hearings are for and that you all have the ability to speak on these matters. If anybody wants to talk after, I'm here.

As far as traffic, I want to hand all of that off to our consultant. For security issues, there will be changes to some of the lighting as well as all of the other things that are going on on this site. It will be brighter and more well lit. For those that are concerned about safety in the later hours of the day, it will be much brighter and well lit.

I also want to clarify about the CVS across the street. According to CVS, they are open until 10, although the pharmacy is open until 9, just as far as hours are concerned.

THE CHAIRMAN: Please, please don't do that. Continue.

MS. MARTIN: As far as the compressors, like we said, those are going to

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be discussed elsewhere, but I do understand that there is a concern about the noise that has been brought up previously and will be addressed at other boards.

Legally we are trying to do everything we can to benefit the community while doing this project. We have tried very hard to work diligently with Ms. Uhle and the board to go back and forth and meet everybody's requirements.

I'm not quite sure what else I could present at this point. As far as the variances are concerned, we're looking for the parking and the backup aisle. Based on how the site is, they are required. We've changed the size of the building, we've changed the location of the parking spots. We are open, but we have been at this for a very long time and are looking to get some closure on this.

THE CHAIRMAN: Okay. I just want to clarify one thing. You made reference a couple of times to "our" or your traffic expert; have you retained --

MS. MARTIN: No, no.

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1. trailer is being removed and some of that space is not new, and it doesn't include any credit for many of these trips are just attracted off of the traffic stream in terms of what's already on New Rochelle Road today.

In terms of those were many good comments which I think we tried to address through the process in reviewing the application, number 1 was the crosswalk, which Ms. Martin mentioned. We had recommended that crosswalk be relocated to meet current standards. One of the observations that we made when we visited the site was traffic leaving the shopping plaza next door when they left and proceeded to the east or south on New Rochelle Road, the crosswalk was really too far away from their driveway. So they came out and all of a sudden there is somebody in their crosswalk. So the purpose of relocating that crosswalk was to bring it more under the traffic signal control as opposed to where it terminates today, which is in the middle of the driveway.

In terms of traffic backing out onto

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1. plan eliminated that driveway, which was in very close proximity.

Also, in the area that's shown as landscaping in kind of the bottom right-hand corner of the site, you could see the dark area there, the driveway is actually -- the current driveway is actually closer to New Rochelle Road and as the public mentioned one of the problems is when people exit there you're right at the intersection. So one of the things we tried to do is just get a better definition, shift the driveway, tighten up the driveway so that we don't have that type of movement going on. Is it perfect? No, because we can't get far enough away from the intersection, but we thought that was a benefit that would address some of the existing conflict problems that occur out there today because you also have the buses, somebody pointed out the Bee Line bus stopping there in that area. So I think those are site plan related changes to address some of the existing problems.

In terms of the modification on New Rochelle Road that was done, it was done

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1. New Rochelle Road, one of the purposes of modifying the plan, there are no striped spaces. Some people park right up against the sidewalk. So part of the purpose here was to create an area that kept vehicles off of New Rochelle Road that had a defined parking space.

One of the other observations that we had, in the morning peak hours -- and again, the traffic numbers we're talking about peak hours -- one of the conflicts that we noticed in our field observations, the existing driveway that's closest to Hillcrest, which is being closed off now on this plan, one of the problems is that people leaving that driveway at the same time someone coming out of Hillcrest is trying to make a left turn all of a sudden you have -- because it's in such close proximity, there was a conflict created there today, and one of the benefits of this plan was to eliminate that conflict. Because of the heavy volumes on New Rochelle Road, turning out any of the side streets the last thing you want to have is another item to think about when you're trying to make that decision. So this

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stopping to get a cup of a coffee, if it’s busy
there, they may not stop. It’s more of a
convenience opportunity. So I think in terms
of those increases while it sounds significant
relative to the traffic generation at this
site, when you look at the overall volume in
the corridor, it doesn’t, you know, weigh into
that same statistical category.

THE CHAIRMAN: I’m sorry to interrupt
you. Just to pick up on that point, also
because you’re defusing that one third over an
hour period of time?

MR. GREELEY: That’s correct, it’s
over the entire hour. You’re talking about
somewhere in the order of an additional car
every six minutes or so coming into the site
and then leaving the site, of course.

So I think in terms of the pedestrian
movements there, the consideration of the
school children, the bus traffic, the changes
to the driveway configuration were recommended
to address what we saw out there. I mean, what
people are bringing up in terms of the morning
peak hour, there is a lot of volume on that

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roadway and there is a lot going on right in
that corner. I believe that by modifying the
driveway, tightening it up, you’re going to
eliminate conflicts that are already there
today and it will make it better.

In terms of -- we talked about the
lane delineators, crosswalk, the safety in the
crosswalk -- in terms of potential backups onto
New Rochelle Road, again, what we tried to do
in making these plan changes was to move the
spaces further off of New Rochelle Road so
that, number 1, people aren’t backing out,
which they do today, out towards the sidewalk.
So if you look at the drawing, the first space
is actually more than a car length away from
New Rochelle Road. I think that was an
important change to just make sure that people
didn’t back out onto the crosswalk. That was
an area where originally there was another
parking space. So it would be less of a
"variance" being requested, but we felt that
removal of that space was more important in
terms of safety of both the pedestrians and the
vehicles entering from New Rochelle Road.

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business, I now make a motion to close our
meeting; is there a second to my motion?

MR. DE MARCO: Second.

THE CHAIRMAN: All in favor.

(All aye.)

THE CHAIRMAN: Good night.

(MEETING ADJOURNED.)

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CERTIFICATION

STATE OF NEW YORK )
) Ss.
COUNTY OF WESTCHESTER)

I, DINA M. MORGAN, Court Reporter and
Notary Public within and for the County of
Westchester, State of New York, do hereby
certify:

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

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 2nd day of April, 2016.

DINA M. MORGAN
Court Reporter

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