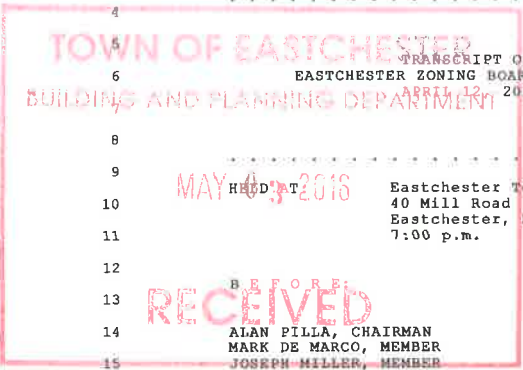


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STATE OF NEW YORK  
COUNTY OF WESTCHESTER  
TOWN OF EASTCHESTER



TRANSCRIPT OF  
EASTCHESTER ZONING BOARD OF APPEALS  
APRIL 12, 2016

MAY 4 2016

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

RECEIVED

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  
MICHAEL VERNON, ASSISTANT PLANNER

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

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EASTCHESTER ZBA - 4/12/16

are resolved. So that's that.  
Now let's take the roll call. Let's start with old business. Firstly, Item number 2, JC Auto Repair has been adjourned to the next meeting.  
Item number 1, which is on for resolution, 13-36, Mobil Station, 504 New Rochelle Road, is the applicant ready to proceed to resolution? Okay.  
Item number 3, 16-11, 41 Rose Avenue; is the applicant here and ready to proceed to a resolution? Okay.  
Under old business with the public hearing open, Item number 4, 16-12, 36 Park Avenue; are you ready to proceed? Thank you.  
Under new business, 16-17, 15 Maple Street, new application; are you ready to proceed? Thank you.  
So under old business for resolution, we have a resolution that is part of the record now approving the modified application of the applicant. We will take the vote. Mr. Cahalin.  
MR. CAHALIN: I vote yes.

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EASTCHESTER ZBA - 4/12/16

THE CHAIRMAN: Good evening and welcome to the town of Eastchester Zoning Board of Appeals meeting for April 12th, 2016. We'll start our meeting with the Pledge of Allegiance. Please rise.

(Whereupon the Pledge of Allegiance was said.)

THE CHAIRMAN: Okay. I'm going to call the roll, and I would like to know if you're present and ready to proceed. Obviously if you're not here, you won't be able to answer me.

Before we go through the roll call, I just want to just briefly remind the present public and listening public that if you're contemplating an application before this board, we meet nine times a year. We do not meet July, August, and December. So if you're considering an application that you want to have decided prior to the summer, you would have to get in by the May meeting, because as a condition printed on your application these applications are not decided first time on they're heard. They're dissolved and then they

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THE CHAIRMAN: Mr. Miller.  
MR. MILLER: Yes.  
THE CHAIRMAN: Mr. Nurzia.  
MR. NURZIA: Yes.  
MR. DE MARCO: What number is this?  
THE CHAIRMAN: I'm sorry, Mobil Station, 504 New Rochelle Road.  
MR. DE MARCO: Yes.  
THE CHAIRMAN: And I vote yes. That application has been approved five nothing.  
Okay. Second item on for resolution, 41 Rose Avenue. We also have a resolution that is part of the record approving that application. For 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 did vote yes. That also has been approved five nothing.  
Okay. Moving on to old business, 36

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1 Park Avenue.

2 While you're setting up, Mr.  
3 Iannacito, I'll just remind the viewing public  
4 that this is an application for a rehearing of  
5 Application 15-74, 36 Park Avenue. Counselor,  
6 I would just ask, if you can, to briefly  
7 synopsise the five part test. We have your  
8 submission, we have read it, because it's a  
9 rehearing I would like you to synopsise it,  
10 please. Thank you.

11 (Discussion from the audience.)

12 THE CHAIRMAN: Excuse me, counselor.  
13 You aren't enthralled and excited by the  
14 proceedings? You're welcome to stay as long as  
15 you would like.

16 MR. DE PIETRO: Good evening,  
17 chairman, members of the board. My name is  
18 Anthony DePietro, and I represent the  
19 applicant, Alfredo Maiorano. Also here with me  
20 tonight is the project architect, John  
21 Iannacito. We are here tonight requesting two  
22 areas variances in order to legalize an  
23 existing portico at the front entrance of the  
24 property.

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1 First, I would like to thank the board  
2 for it's time and continued consideration of  
3 this application. I know it's on rehearing and  
4 it has been before the board for quite some  
5 time. We strongly believe, as outlined in our  
6 submission, that we have met the applicable  
7 test, and that the factors do weigh in favor of  
8 granting both area variances.

9 I do not believe that the portico  
10 creates an undesirable change in the character  
11 of the neighborhood or acts as a detriment to  
12 the nearby properties.

13 Second, the benefit sought by the  
14 applicant cannot be achieved by some other  
15 method. I think any extension to the property  
16 would require a variance because it is  
17 non-conforming.

18 Third, the requested variances are not  
19 substantial and would not have an adverse  
20 impact on the physical or environmental  
21 conditions in the neighborhood or district.

22 And fourth, the portico is just a  
23 negligible addition to the existing structure.  
24 It is positioned over an existing raised

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1 platform and is supported by brackets rather  
2 than columns.

3 Fifth, the alleged difficulty is not  
4 exclusively self-created because the applicant  
5 has no choice but to seek an area variance if  
6 the portico is to remain.

7 I know in this case we have the  
8 unfortunate circumstance that the applicant did  
9 proceed before seeking the variances. In  
10 saying that, I would like to point out that  
11 that was a remote occurrence, he was forthright  
12 in his application before the board, and I am  
13 not trying to advocate that that was proper.  
14 He understands. I think he fully understands  
15 at this point that this is something that it  
16 wastes the board's time, everyone's time  
17 involved, but I do not think that that should  
18 be dispositive as to whether the application  
19 should be granted.

20 I would like to say that I understand  
21 we need a unanimous decision in our favor if  
22 the application is to be granted, and I would  
23 just stress if there are any concerns, that you  
24 at least give us the opportunity tonight to

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1 address them, whether it be myself or John, so  
2 that this could be resolved in everyone's best  
3 interest.

4 THE CHAIRMAN: Thank you for your  
5 presentation. I would like to just clarify one  
6 point with our attorney. Is a unanimous vote  
7 required?  
8

9 MR. TUDISCO: My understanding is that  
10 a unanimous vote is required for a rehearing,  
11 but the --

12 MS. UHLE: A unanimous vote is  
13 required to approve it as well.

14 MR. DE PIETRO: That was my  
15 understanding as well.

16 THE CHAIRMAN: It is now ours as well.  
17 I wanted to clarify that.

18 MR. DE PIETRO: Please, if there are  
19 any concerns, I will try to address it or John  
20 to resolve this tonight or at the next meeting.

21 THE CHAIRMAN: Okay. Well, what I'm  
22 going to do now and what we customarily do is  
23 the board is going to ask any questions that  
24 they may have of the applicant, and then it  
25 will be open for the public hearing if under

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1 Robert's rules there's a motion that's  
2 seconded, and then the public will have an  
3 opportunity to be heard and then the board will  
4 have some comments thereafter.

5 Let's start, firstly, with questions  
6 from the board. Mr. Cahalin, do you have any  
7 questions of this applicant?

8 MR. CAHALIN: None.

9 THE CHAIRMAN: Mr. Miller?

10 MR. MILLER: None.

11 THE CHAIRMAN: Mr. Nurzia?

12 MR. NURZIA: No, I don't.

13 THE CHAIRMAN: Mr. DeMarco?

14 MR. DE MARCO: No.

15 THE CHAIRMAN: I don't either. So I  
16 make a motion to open this to a public hearing;  
17 is there a second to my motion?

18 MR. DE MARCO: Second.

19 THE CHAIRMAN: By Mr. DeMarco. All in  
20 favor.

21 (All aye.)

22 THE CHAIRMAN: Would anyone like to  
23 come forth and be heard on this application?

24 (No comments.)

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1 THE CHAIRMAN: Seeing no one, is there  
2 a motion to close the public hearing?

3 MR. CAHALIN: So moved.

4 THE CHAIRMAN: By Mr. Cahalin. Is  
5 there a second?

6 MR. DE MARCO: Second.

7 THE CHAIRMAN: By Mr. DeMarco. All in  
8 favor.

9 (All aye.)

10 THE CHAIRMAN: Okay. The applicant  
11 doesn't have to rebut anything that was said  
12 because nothing was said. So any commentary  
13 from the board, we'll start with Mr. DeMarco;  
14 do you have any comments?

15 MR. DE MARCO: No. Nice job.

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: No.

22 THE CHAIRMAN: Again, I have nothing.  
23 It's self-explanatory in your submission.

24 MR. DE PIETRO: Thank you for your

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1 time.

2 THE CHAIRMAN: I'm going to make a  
3 motion to adjourn for resolution at the next  
4 meeting; is there a second?

5 MR. CAHALIN: Second.

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

8 (All aye.)

9 MR. DE MARCO: Do we vote for the  
10 resolution for rehearing and also for the  
11 variance?

12 MS. UHLE: The resolution for the  
13 rehearing was last month. So you voted to  
14 rehear it last month. So you'll just be coming  
15 in next month for the resolution on this  
16 application.

17 THE CHAIRMAN: Thank you, Mr.  
18 Iannacito.

19 So before we hear the next  
20 application -- I moved out of order -- so I'm  
21 making a motion to approve the minutes from the  
22 March 8th, 2016 meeting; is there a second to  
23 my motion?

24 MR. MILLER: Second.

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1 THE CHAIRMAN: By Mr. Miller. All in  
2 favor.

3 (All aye.)

4 THE CHAIRMAN: Okay. New business,  
5 Item 16-17, 15 Maple Street.

6 While you're setting up, this is an  
7 application to legalize an existing shed and  
8 impervious surface variance. If you want to  
9 summarize, please do.

10 MR. MAIORANO: Good evening, Chairman,  
11 board members. My name is Adamo Maiorano from  
12 Community Designs on behalf of the applicant,  
13 Michael Dipaola. We are seeking an area to  
14 legalize an existing shed in the rear yard.

15 The shed was constructed by the  
16 homeowner at least over 20 years ago, and it is  
17 in line with an existing non-conforming garage.  
18 The side setback of the shed is 3.3 feet and  
19 what is required is 5 feet. So that is one of  
20 the variances we are seeking, as well as the  
21 size of the shed. It is a 12 by 12 shed, what  
22 is required is a maximum of 10 by 12. Our  
23 third is -- it's a fairly large site, but the  
24 existing site is as far as impervious surface

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2 coverage non-conforming because it is in excess  
3 of what is required. So we are trying to  
4 legalize 144 square feet of that additional  
5 impervious surface.

6 If there are any questions, I would be  
7 happy to answer.

8 THE CHAIRMAN: Sure. In line with  
9 what you just said, let's ask the board if they  
10 have any questions. Mr. Cahalin, any  
11 questions?

12 MR. CAHALIN: No.

13 THE CHAIRMAN: Mr. Miller?

14 MR. MILLER: No.

15 THE CHAIRMAN: Mr. Nurzia?

16 MR. NURZIA: Yes. Did you say you're  
17 client built that shed?

18 MR. MAIORANO: Yes, he did. He's a  
19 mason contractor.

20 MR. NURZIA: I drive by there all the  
21 time to work, so I see it. Why was this not  
22 raised when he built it?

23 MR. MAIORANO: I believe at the  
24 time -- he's here now -- I believe at the time  
25 he didn't realize that there was a permit

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1 EASTCHESTER ZBA - 4/12/16  
2 required to construct the shed. Now in trying  
3 to legalize it, we are aware of all the  
4 circumstances that are happening with it.

5 MR. NURZIA: So the masonry contractor  
6 was not aware of --

7 MR. MAIORANO: At the time, yes,  
8 because it was so long ago. At that time, I  
9 believe he wasn't, yes, aware of the permit  
10 required for the shed.

11 THE CHAIRMAN: Any follow-up, Mr.  
12 Nurzia?

13 MR. NURZIA: No.

14 THE CHAIRMAN: Mr. DeMarco?

15 MR. DE MARCO: Nothing.

16 THE CHAIRMAN: Mr. Miller, do you have  
17 a question?

18 MR. MILLER: I do. I'm just looking  
19 at one of the photographs here you submitted,  
20 and I see a structure next to it looks like the  
21 window or right below the window, which appears  
22 to be -- at least it appears to me -- to be  
23 some type of tank, possibly propane?

24 MR. MAIORANO: I believe so. I'm not  
25 sure what that is for. Maybe the owner --

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2 MR. MILLER: Yes, that would be nice.

3 THE CHAIRMAN: Would you like to come  
4 forward please? Thank you.

5 MS. DIPAOLA: Good evening. My name  
6 is Olga Dipaola, 15 Maple Street. What was the  
7 question?

8 MR. MILLER: This tank, which is right  
9 under the window in picture 1, is that a  
10 propane tank?

11 MR. DE PIETRO: It is a propane tank.  
12 That tank was -- we found it there when we  
13 bought the house, which like is 30 years ago,  
14 something like that, and -- how many years  
15 ago -- 40 years ago. That tank nobody wanted,  
16 so we don't know where to put it. We call a  
17 couple of places and nobody wanted that tank.  
18 So it's there since we bought the house,  
19 because when we change -- they used to use  
20 propane, that big tank because there was no gas  
21 in the house. Then we put the gas in the  
22 house. We remove that tank and they put it  
23 there and we call a couple of places, I believe  
24 Suburb, something like that, nobody wants to  
25 pick up that tank. So we don't know what to do

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2 with the tank.

3 MR. DE MARCO: So it's empty?

4 MS. DIPAOLA: It might be like empty,  
5 maybe a little bit in, but it's there since we  
6 bought the house. So I don't know what to do,  
7 I don't know where to put it, we don't know.

8 THE CHAIRMAN: So it's a  
9 non-operational tank?

10 MS. DIPAOLA: Excuse me.

11 THE CHAIRMAN: It's not operational?  
12 You're not using it?

13 MS. DIPAOLA: No, no. It's  
14 disconnected. When we put the gas line, the  
15 plumber, they put it there and it remain there  
16 since then.

17 THE CHAIRMAN: Thank you.

18 MR. MILLER: Was there a line that  
19 went into that tank?

20 MS. DIPAOLA: I'm sorry.

21 MR. MILLER: Was there a line that  
22 extended into or out of the tank, however you  
23 want to look at it?

24 MS. DIPAOLA: A line now?

25 MR. MILLER: It looks like to be a

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1 propane tank.

2 MS. DIPAOLO: It's a tank like you use  
3 a barbecue, you know, like they use to use.  
4 It's a big tank because probably they use to  
5 use for -- I don't know -- they didn't even  
6 have gas at that time in the house. They use  
7 to have electric stove when we bought it. I  
8 have no idea what that tank was used for. I  
9 have no idea. That tank was there.

10 MS. UHLE: There are some people that  
11 have propane tanks for gas stoves and they put  
12 in gas--

13 MS. DIPAOLO: We put the gas. We put  
14 the gas line in. That was there that tank. So  
15 I don't know.

16 MR. MILLER: What I'm wondering -- you  
17 seemed to it answer it -- was that active at  
18 some point where there are lines running into  
19 the structure?

20 MS. DIPAOLO: When we bought it, no.  
21 When we bought the house, no. So that's all I  
22 could tell you.

23 MR. MILLER: That's good.

24 MR. MAIORANO: I believe it's in

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1 storage and that's the spot it's kind of in  
2 storage in. It's a little odd place to store  
3 it but --

4 THE CHAIRMAN: Thank you. I don't  
5 have any questions at this time. So I do have  
6 a motion to open this for a public hearing; is  
7 there a second to open this matter?

8 MR. CAHALIN: So moved.

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

11 (All aye.)

12 THE CHAIRMAN: Is there anyone, a  
13 scout, anyone who would like to be heard on  
14 this application?

15 (No comments.)

16 THE CHAIRMAN: Seeing no one  
17 interested in speaking on this application, or  
18 no one here for that matter, I make a motion to  
19 close the public hearing.

20 MR. MILLER: Second.

21 THE CHAIRMAN: Second by Mr. Miller.  
22 All in favor.

23 (All aye.)

24 THE CHAIRMAN: Okay. Commentary from

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1 the board; Mr. DeMarco, any comments?

2 MR. DE MARCO: Maybe the Boy Scouts  
3 will come and take it away for you. That will  
4 give you the propane removal badge. Just be  
5 careful.

6 THE CHAIRMAN: Mr. Nurzia, anything?

7 MR. NURZIA: No.

8 THE CHAIRMAN: Mr. Miller?

9 MR. MILLER: No.

10 THE CHAIRMAN: Mr. Cahalin?

11 MR. CAHALIN: Nothing.

12 THE CHAIRMAN: And I have very little.

13 It's a very straightforward application and  
14 it's already a preexisting non-conforming  
15 impervious surface use. You're really not  
16 extending it substantially more. It wasn't  
17 substantial to begin with and you're not  
18 extending it substantially more, so I don't  
19 have an issue with it.

20 So I make a motion to adjourn this  
21 matter for resolution to the next meeting; is  
22 there a second to my motion?

23 MR. MILLER: Second.

24 THE CHAIRMAN: By Mr. Miller. All in

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1 favor.

2 (All aye.)

3 MR. MAIORANO: Thank you for your  
4 time.

5 THE CHAIRMAN: Thank you. We have  
6 concluded our business for tonight, so I make a  
7 motion to adjourn the meeting; is there a  
8 second to my motion?

9 MR. DE MARCO: Second.

10 THE CHAIRMAN: By Mr. DeMarco under  
11 the wire. All in favor.

12 (All aye.)

13 (MEETING ADJOURNED.)

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CERTIFICATION

5 STATE OF NEW YORK )  
6 ) Ss.  
7 COUNTY OF WESTCHESTER)

8 I, DINA M. MORGAN, Court Reporter and  
9 Notary Public within and for the County of  
10 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 2nd day of May, 2016.

23  
24  
25

*Dina M. Morgan*

DINA M. MORGAN  
Court Reporter  
DINA M. MORGAN, REPORTER

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CORRECTION SHEET

PAGE                      CORRECTION

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