

STATE OF NEW YORK: COUNTY OF PUTNAM

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TOWN OF SOUTHEAST

ZONING BOARD OF APPEALS

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67 Main Street
Brewster, New York 10509
August 21, 2006

B E F O R E B O A R D M E M B E R S :

EDWARD COLELLO, Chairman

THOMAS COSTELLO, Acting Chairman

JOSEPH CASTELLANO

TIMOTHY FROESSEL

PAUL VINK

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1 MR. COLELLO: Good evening everyone.
2 Welcome to the August 2006 meeting of the Town of
3 Southeast Zoning Board of Appeals. My name is Ed
4 Colello.

5 Allow me to introduce our Board
6 members that are present. To my far left is Paul
7 Vink. To my immediate left is Tom Costello, vice
8 chairman. To my right Tim Froessel, board member and
9 Jayne McGinley is our stenographer who will be taking
10 our notes.

11 We have 13 items on the agenda this
12 evening. Unfortunately, we only have four members
13 that are present. I haven't heard that anyone is not
14 going to be here. This causes a bit of a dilemma for
15 us and we leave this up to the applicant to make the
16 decision. For a variance to be approved you must
17 have four votes. It's a seven person voting board
18 and you must have four votes. So, that if we were
19 going to vote on any decision tonight and only the
20 four of us, which we can vote, you would have to go
21 four for four.

22 Now, that's in my opinion -- our
23 opinion it's always been -- somewhat puts the
24 applicant at a disadvantage. So that what we will do
25 this evening is -- again, if we knew the other

1 members weren't coming it would be one thing, but we
2 haven't heard from any of them. We will give the
3 applicant the option, meaning if you'd like us to
4 vote on your application this evening we will be more
5 than happy to do that.

6 Okay. Now we have five. Joseph
7 Castellano is present. So, now we have five. So now
8 you only have to go four for five.

9 Let me read you the agenda we'll be
10 following this evening. This is in the order we will
11 be taking them. Number one is Prestige Petroleum,
12 Inc., sign; Karl and Jean Lueder; 99 Route LLC
13 Brewster Honda; George and Maryvel Lombardo; Bruce
14 and Marilyn Martin; Robert Sechny; William Ratajack;
15 Fiona Hollands; Michael and Elisa Anfusio; Frank
16 DePietro; Ignacio and Inez Gomez; Joe Massimo and
17 Valero Gas Station, Route 6 for the freestanding
18 sign. Those are our 13 items on the agenda this
19 evening and that's the order we will be following.
20 So, let's get right into it, Prestige Petroleum, Inc.

21 MR. LIGUORI: Hi, Ed. Good evening.
22 Michael Liguori on behalf of Prestige Petroleum. I'm
23 here with Frank Hessari. I'm sure you remember us.
24 Ed, if I could just ask one question?

25 MR. COLELLO: Sure.

1 MR. LIGUORI: I think the Board's
2 contemplation of our request for the freestanding
3 sign may have some bearing on the requested wall
4 sign. So, I was hoping that we could discuss this
5 together even though we're split for the front of the
6 agenda and the back of the agenda.

7 MR. COLELLO: So you want me to take
8 the last thing on the agenda and move it to the front
9 for you?

10 MR. LIGUORI: I think in the interest
11 of the economy of the Board's time, it may speed
12 things up.

13 MR. COLELLO: It's not the Board's
14 time I'm worried about, it's all the other people's
15 time. Let's see what we can do.

16 MR. LIGUORI: Okay. What we've done
17 essentially is we've -- after the last meeting we
18 decided to hold over going to -- let me just go back
19 and just refresh the Board's recollection as to what
20 had happened at the last meeting.

21 MR. COLELLO: Please.

22 MR. LIGUORI: We had made a request
23 for an area variance to have a freestanding sign with
24 a height of 12 feet and an area of 48 square feet.
25 The area was denied by the Board. The height was

1 denied by the Board. We were granted a variance to
2 permit a reduced setback to zero feet. The Board
3 granted us an interpretation or made an
4 interpretation, granted an area variance in
5 connection with the fascia for the corner and I think
6 that is everything.

7 MR. COLELLO: You know where the sign
8 is going, you just don't know the height and the
9 size.

10 MR. LIGUORI: That's correct.

11 MR. COLELLO: Right?

12 MR. LIGUORI: That's correct.

13 MR. COLELLO: Okay.

14 MR. LIGUORI: So, what we've done is
15 is we -- we'd like to continue our request to permit
16 the additional wall sign. We do have the Valero sign
17 that's on the canopy. We'd like to keep the sign
18 that's above the door. Right now it says Savino's
19 convenience and deli. We'd like that to read food
20 mart. We don't want to change the area of the sign.
21 That's 13 square feet. We'd like to keep that the
22 same. So, there's a variance requested to permit
23 that sign to remain.

24 And my later application, which I
25 submitted, was to reduce the requested area for the

1 freestanding sign. So, we're going to stay with the
2 eight feet that's permitted, if you are permitted a
3 freestanding sign, and we'd like to have an area of
4 24 square feet which is reduced in half from the 48.
5 We were able to get it with a -- we've asked for up
6 to 24 square feet which would permit us to have the
7 gas prices on that sign.

8 MR. COLELLO: The height no higher
9 than eight feet?

10 MR. LIGUORI: No higher than eight
11 feet.

12 MR. COLELLO: All right. So, the
13 first thing on the agenda is the wall sign?

14 MR. LIGUORI: Wall sign.

15 MR. COLELLO: The Savino sign?

16 MR. LIGUORI: Right, that's this sign
17 right here, convenience store and deli, and that
18 would read food mart and it would be lowered to not
19 be on the fascia because I think we're going to run
20 into an issue with having that on the fascia thereby
21 making the fascia a sign.

22 MR. COLELLO: So it's going to go
23 right over the door?

24 MR. LIGUORI: It would be right over
25 the door, yes.

1 MR. COLELLO: And the sign to the
2 right, is that to be taken down?

3 MR. LIGUORI: Everything is to come
4 down, Ed. The final plan, which I submitted in the
5 applications, is the three signs to be permitted on
6 the premises would be the Valero sign on the canopy,
7 the food mart sign, which is this sign just lowered,
8 and the freestanding sign.

9 MR. COLELLO: Can you see that?

10 MR. VINK: Yes.

11 MR. LIGUORI: We are permitted with
12 the code to have the price signs on the pumps,
13 though. That's something I just want to make clear
14 that we are permitted to do that.

15 MR. COLELLO: That's a law. I think
16 it's a state law that they have to be there anyway.

17 MR. LIGUORI: I'm not exactly sure
18 what the requirement is, but that's what we'd like to
19 have and that would be our end product. So, we would
20 get rid of this sign which is currently where our
21 price sign is. We would take down everything, all
22 the window decals which we previously mentioned and,
23 I guess, we'd have to cover up the language on the
24 icebox. We would probably have to paint that, but
25 that's the plan.

1 MR. COLELLO: All right. Let's deal
2 with that sign now, all right, as we go through on
3 the agenda in fairness to everyone.

4 MR. LIGUORI: All right.

5 MR. COLELLO: Now we know what your
6 whole game plan is, let's deal with that. Mike, you
7 have to help us a little bit and what I need is, do
8 you have your denial letters on that sign? Do you
9 have a denial letter on that sign, or no?

10 MR. LIGUORI: We have our -- we have
11 our denial from Ron in connection with our original
12 application, but we don't have our denials from the
13 Board as to the last meeting.

14 MR. COLELLO: All right. My problem
15 is that --

16 MR. LIGUORI: The letter from Ron
17 Harper?

18 MR. COLELLO: Yes, I am looking at it
19 night now, November 16th.

20 So, what you're asking for, if I
21 understand this, is the only thing you need a
22 variance for on the wall sign is relief from the rule
23 that you can only have one?

24 MR. LIGUORI: That's correct.

25 MR. COLELLO: One sign.

1 MR. LIGUORI: One wall sign.

2 MR. COLELLO: Right. As far as
3 square footage it's not a problem?

4 MR. LIGUORI: No. We -- if that were
5 the only wall sign, we would be under the minimum
6 permitted of 18 square feet. So, we're at 13 square
7 feet which would be less than the minimum permitted.

8 MR. COLELLO: Do you have any
9 questions or thoughts or opinions from anyone in the
10 audience with regards to this application? Go ahead.

11 MS. ECKARDT: Lynne Eckardt. It's
12 kind of hard to take these two apart and I'd love you
13 to do them both so I can go home early. So, the
14 relief on this is only due to the other wall -- the
15 Valero sign on the canopy? I don't know. I think it
16 really does kind of go part and parcel with the
17 freestanding sign, but that's just my opinion.

18 MR. COLELLO: Well, I think it does.
19 I think it absolutely does. One of the big reasons I
20 don't think it does to people in this room is they
21 have to sit through -- you know, I feel uncomfortable
22 moving number 13 to number one.

23 MS. ECKARDT: If we can move them to
24 13, I have to sit here anyhow, and he gets paid more.

25 MR. COLELLO: It's their call. I'm

1 not going to ask number one to move to 13.

2 MS. ECKARDT: No, I know. I just
3 think it would be difficult for you. I mean, it's
4 certainly difficult for me to make much comment
5 because they are kind of -- it is all one --

6 MR. COLELLO: Make your comments. If
7 you feel that you don't think that -- or you do think
8 that this is a good application, say so.

9 MS. ECKARDT: Well, you know me, the
10 less signage is the better so I'm not exactly
11 thrilled with food mart, you know. They have the
12 Valero sign. I don't think that's --

13 MR. COLELLO: Well, look what's
14 happened, though. We're getting rid of the Savino
15 sign, not to knock Mr. Savino, but we're getting rid
16 of the Savino sign, and it's the same size as the
17 Savino sign.

18 MS. ECKARDT: Right.

19 MR. COLELLO: That white sign is
20 coming down.

21 MS. ECKARDT: Which would have to
22 anyhow, correct, whether they get denied or approved
23 tonight?

24 MR. COLELLO: Correct. Well, they're
25 not asking to keep it, it's going.

1 Do you have your pictures, Mike?

2 MS. ECKARDT: Wouldn't it go anyhow
3 is my question?

4 MR. COLELLO: He could ask for a
5 variance for it, but he's not.

6 MR. HESSARI: Ron said it's been
7 there, it's grandfathered, it could stay there.

8 MR. LIGUORI: It could stay there for
9 six years.

10 MR. HESSARI: That's why we're using
11 it for a price sign.

12 MR. LIGUORI: Which sign are we
13 talking about now?

14 MR. COLELLO: I'm talking about the
15 one over the ice.

16 MR. HESSARI: Yes.

17 MR. COLELLO: That is coming down?

18 MR. LIGUORI: That's coming down,
19 yes, and all the writing, all the decals, that's all
20 coming down.

21 MR. COLELLO: In my opinion, if
22 this Board feels fit to grant the variance for that
23 wall sign, part of the stipulation would be that all
24 of the writing, the decals on the windows and that
25 white sign are removed, so it's really going to be

1 less signage on the building.

2 MS. ECKARDT: Right, but it's kind of
3 a dicey gray area as far as whether or not that would
4 stay or go or it could stay six years.

5 MR. COLELLO: Not if it's part of the
6 stipulation in granting the variance and they agree
7 to it. Would you agree to that?

8 MR. HESSARI: Of course.

9 MR. COLELLO: See what I'm saying, if
10 it's in the minutes, it's real simple.

11 MS. ECKARDT: Get rid of all of the
12 junk in six years. I don't know. It's just --

13 MR. VINK: Of course, the rules may
14 change in six years.

15 MS. ECKARDT: That's right.

16 MR. COLELLO: Maybe I won't be here
17 in six years.

18 MS. ECKARDT: It's a lot of signage.
19 I think it's a little bit difficult to consider
20 without the freestanding, but --

21 MR. COLELLO: Not to debate, but let
22 me ask you one question: Don't you think they're
23 going down in signage, to some degree? I think
24 they're going down in signage.

25 MS. ECKARDT: I don't know until I

1 see the freestanding thing all over again. I really
2 don't know because that's where I have the real
3 problem with is the freestanding. I'm more inclined
4 to go along with this, but the freestanding, because
5 of the grandfathering -- I have a letter to read when
6 we get to number 13. That's what I have more of a
7 problem with.

8 MR. COLELLO: You have more of a
9 problem with the freestanding than the building
10 signage?

11 MS. ECKARDT: Yes, much.

12 MR. COLELLO: Even if it stays at
13 eight feet?

14 MS. ECKARDT: Well, if that's what's
15 going to be allowed -- no, they need a variance.
16 It's 24 square feet that they need a variance for?

17 MR. COLELLO: Right. But before they
18 were going for 12 feet.

19 MS. ECKARDT: I know. What's
20 allowed, I guess?

21 MR. COLELLO: Eight, eight feet.

22 MS. ECKARDT: And how much --

23 MR. LIGUORI: 10 square feet.

24 MS. ECKARDT: So, they're asking for
25 more than double. I mean, it's very difficult for me

1 to say what's the lessor of both evils. I don't want
2 to take a lot of time on this. A lot of people have
3 a lot of stuff to talk about.

4 MR. COLELLO: Any questions, thoughts
5 or opinions? Do we have any other questions of the
6 applicant? Any other questions before we close the
7 public hearing?

8 Would you like to make any final
9 comments before we close the public hearing?

10 MR. LIGUORI: Just the comment that
11 the additional wall sign really relates to the
12 business on the premises. I mean, it's becoming
13 difficult to distinguish whether or not you have just
14 a gas station and -- you know, an accessory
15 convenience store. In this case, we really have a
16 full functioning deli with tables to sit down.

17 And I'd just like the Board to know
18 that there really are two business here. I mean,
19 there's a gas station here, but there's also a deli
20 that operates and the wall sign does give us that
21 additional advertising and it does let people know
22 that we do have these two uses here.

23 MR. COLELLO: I have one last
24 question. I know it's going to be the same size, but
25 what exactly is the size of this proposed food mart

1 sign?

2 MR. LIGUORI: It is nine feet by 1.5
3 feet, and that's the measurement of the sign
4 currently.

5 MR. COLELLO: Do we know how big the
6 white sign that's going down is, the one over the ice
7 machine?

8 MR. LIGUORI: You know, Ed, I don't
9 know the exact dimension.

10 MR. COLELLO: About four by four, or
11 is that too big?

12 MR. LIGUORI: No. It's bigger than
13 four by four because this is nine by 1.5.

14 MR. COLELLO: Six or seven by four by
15 three?

16 MR. VINK: Three, four, three.

17 MR. COLELLO: 21 something, 25 square
18 feet. Okay. Thank you.

19 MR. HESSARI: Also the wording on
20 there, it goes.

21 MR. COLELLO: Do you think you've had
22 a fair and adequate opportunity to state your case?

23 MR. LIGUORI: Yes.

24 MR. COLELLO: Very good. We'll close
25 the public hearing. Thoughts, opinions?

1 MR. FROESSEL: I'll give you my
2 opinion which is, you know, if all the other signage
3 on the glass comes down, I think it's a fair
4 compromise to get rid of all of that signage to allow
5 the one sign to remain.

6 MR. COLELLO: Well, yeah, I agree
7 with you. And I also like the fact that the white
8 sign is going down too because you're losing all the
9 decal signage and the white sign, so technically less
10 signage on the building which I just think it will
11 look, personally, better.

12 MR. VINK: And it's a valid point
13 that Michael made at the end that it's a separate
14 business that you may not know it's there if there's
15 no sign telling you it's there. I think that's a
16 valid point.

17 MR. COLELLO: That's true.

18 I'll entertain any motions either in
19 favor of or opposed.

20 I would like to make a motion to
21 grant the variance to have the existing Savino sign
22 changed to a sign that will say food mart to a
23 maximum size of nine feet by 1.5 feet with the
24 stipulation that all the decal signs on the windows
25 will be taken down and the white sign over the ice

1 machine, as noted in the maps, that is approximately
2 20 some odd square feet. Do I have a second?

3 MR. COSTELLO: Before we finish the
4 motion, could we make it clear that there will be no
5 other signage on the windows, on the inside or
6 outside, that's nonconforming?

7 MR. COLELLO: Absolutely. Do I have
8 a second?

9 MR. VINK: Second.

10 MR. COLELLO: Seconded by Paul. I'll
11 address the criteria.

12 Whether an undesirable change will be
13 produced in the character of the neighborhood; no, I
14 don't think so. It's a business, first of all, it's
15 not a residence. It's in a predominantly business
16 neighborhood. There is a residence up the road a
17 little bit, but it's predominantly a business
18 neighborhood.

19 I think it's a better change in the
20 fact that there's less signage. Again, this is one
21 sign that's already there. It will stay there. It's
22 the same size, but we are losing a lot of signage on
23 the glass and another sign, so I think it's a win for
24 all parties.

25 Number two, whether the benefit

1 sought by the applicant can be achieved by some
2 feasible method other than a variance; the only other
3 option is no sign. The applicant needs a variance if
4 they were going to put a three by three or a two by
5 two, or whatever sign. So, really the only other
6 option is no sign at all.

7 Whether the requested variance is
8 substantial; you could call it substantial in the
9 fact that they're asking for an additional sign, but
10 if you look at the business now and you look at
11 what's already there, I can't really, in my heart,
12 call it substantial because the applicant is
13 diminishing the amount of the signage that's there.

14 Whether the proposed variance will
15 have an adverse effect or impact on the environmental
16 conditions; and I think the answer is no.

17 And whether the alleged difficulty
18 was self-created; well, you know, in almost every
19 variance you could make an argument that the
20 difficulty was self-created because the applicant
21 wants a sign there. But, the applicant really is
22 just trying to keep a sign -- change the wording of
23 course, but keep a sign that's been there for a long
24 time and, as I said earlier, diminish some of the
25 other signs that are on the building.

1 So, with that we'll have a roll call
2 vote. Joseph.

3 MR. CASTELLANO: In favor.

4 MR. COLELLO: Tim.

5 MR. FROESSEL: I'm in favor.

6 MR. COLELLO: Tom.

7 MR. COSTELLO: Opposed.

8 MR. COLELLO: Paul.

9 MR. VINK: In favor.

10 MR. COLELLO: And I'm in favor as
11 well. So your variance is approved for the
12 freestanding sign.

13 MR. FROESSEL: Not the freestanding
14 sign

15 MR. COLELLO: I'm sorry, the wall
16 sign with the understanding, as we agreed on, right,
17 that the window decals come down and that white sign
18 comes down, all right.

19 MR. LIGUORI: Thank you.

20 MR. COLELLO: You're welcome.

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3 MR. COLELLO: Okay. Moving on to
4 number two, Karl and Jean Lueder. Again, this is a
5 carryover.

6 MR. LUEDER: I see everybody got the
7 drawings they were looking for.

8 MR. COLELLO: Sir, could you walk us
9 through your application again? Give us the
10 highlights of the application.

11 MR. LUEDER: I'm sorry. Well, you
12 can see from the property the right-of-way in the
13 road here. This is my garage. It's about 8.5 off
14 the right-of-way. But, anyway, this is basically a
15 private driveway up to the Carr residence. We have a
16 house over here.

17 I am looking simply to put a deck
18 behind my garage to get into some overhead storage
19 space. It's behind the building so it won't even be
20 seen. The maximum height is maybe seven feet and it
21 goes into a hill. It blends right into a hill in the
22 back so there's no drop-off. I think three or four
23 steps to get up to the deck. I guess the design --
24 these were supposed to be handed to all the Board
25 members. I don't know if they were. I don't know if

1 they got it here, but they were made and dropped off
2 to the town hall. That's it. Yeah. I think
3 everybody -- everything is designed to specification
4 and, you know, it's not to be -- it's not a
5 residential space or anything that I'm making above
6 there. It's just storage space.

7 MR. COLELLO: We're more concerned,
8 at this level, with the location. The building
9 department will be more worried about your structural
10 issues. Can I see that?

11 MR. LUEDER: This?

12 MR. COLELLO: Please.

13 MR. LUEDER: This is the deck -- I
14 mean, this is the walkway up to the house. The deck
15 is going here, blending into a hill and then the
16 steps are over here. I'm not getting into -- any
17 closer into the front.

18 MR. COLELLO: Do you have
19 measurements?

20 MR. FROESSEL: This is solely an
21 expansion of a preexisting, nonconforming.

22 MR. COLELLO: So, we really don't
23 need to know the distance.

24 MR. FROESSEL: The problem is the
25 garage is in the front setback, but he's not going

1 any further forward.

2 MR. COSTELLO: You mean the
3 dimensions of the structure that he's adding?

4 MR. COLELLO: I have that, but I was
5 wondering about the distance between here and the
6 road. We don't need that.

7 MR. COSTELLO: No.

8 MR. COLELLO: You can have this back.

9 Do we have any questions from anyone
10 in the audience with regard to this application? Any
11 questions of the Board members before we close the
12 public hearing?

13 Before we close the public hearing,
14 is there any final comments you would like to make?

15 MR. LUEDER: No. I think it's pretty
16 much self-explanatory. If I don't get the variance,
17 it would be -- just keep dropping off. I can't get
18 into the storage space. It's fairly straightforward.
19 As I say, you shouldn't even see it from the road.
20 It's not a big grandiose type of thing. Okay.

21 MR. COLELLO: Do you feel you've had
22 a fair and adequate opportunity to state your case?

23 MR. LUEDER: Absolutely.

24 MR. COLELLO: Great. Please have a
25 seat. Make yourself comfortable. Leave that there.

1 I'll give it to you when we're done.

2 Okay. Just so we all remember, the
3 applicant is putting -- wants to put a deck, if you
4 call it a deck, on the back of his garage and he has
5 a problem because he's on a corner lot, if we
6 remember, because he has two front yard setbacks to
7 live with and his garage is already within the front
8 yard setback. So, as Tim said, what he's asking for
9 is a variance to expand a preexisting, nonconforming
10 structure which extends into the front yard setback
11 on Hillside Avenue.

12 MR. FROESSEL: I'll make a motion to
13 grant the applicant a variance to construct the 10
14 foot by 12 foot deck on the rear of the garage that
15 is currently within the front setback with the deck
16 to be constructed as depicted in the drawings
17 submitted to the Board.

18 MR. COLELLO: Do I have a second?

19 MR. COSTELLO: I'll second.

20 MR. COLELLO: Seconded by Tom. Would
21 you address the criteria, please?

22 MR. FROESSEL: Yes.

23 Whether an undesirable change will be
24 produced in the character of the neighborhood or a
25 detriment to nearby properties will be created by the

1 grant of the variance; I don't think it's really any
2 undesirable change at all. It's on the rear of the
3 garage. It's really going to be not visible to
4 anyone and it's -- you know, it's just serving a
5 utilitarian purpose for the applicant so he can
6 utilize the storage space in his garage.

7 Whether the benefit sought by the
8 applicant can be achieved by some feasible method
9 other than a variance; we could make him climb up a
10 ladder I suppose, but that's not really too safe.
11 So, I don't think that there's really a feasible
12 method that's any less intrusive than what he's
13 planning to do.

14 Whether the requested variance is
15 substantial; no, it's not. It's just that he has to
16 do a slight enlargement to a nonconforming structure.

17 Whether the proposed variance will
18 have an adverse effect or impact on the environmental
19 conditions in the neighborhood or district; no, it
20 will not.

21 Whether the alleged difficulty was
22 self-created; it was not self-created. The applicant
23 bought the property with a garage already located in
24 an area that was preexisting, nonconforming.

25 MR. COLELLO: Okay. Roll call vote.

1 We'll start with Paul.

2 MR. VINK: In favor.

3 MR. COSTELLO: In favor.

4 MR. CASTELLANO: In favor.

5 MR. FROESSEL: I'm in favor.

6 MR. COLELLO: And I'm in favor.

7 You're all set. You can take back this.

8 MR. LUEDER: That's the way it's
9 supposed to work. Thank you very much. What do I
10 do?

11 MR. COLELLO: Go right to the
12 building department and they'll take care of you from
13 this point forward.

14 MR. LUEDER: Thank you. I appreciate
15 it.

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23 MR. COLELLO: Brewster Honda.

24 MR. ROSSI: Hello everyone.

25 MR. COLELLO: How you doing?

1 MR. ROSSI: All right.

2 MR. COSTELLO: I would like to remind
3 your clients that they're still under oath.

4 MR. ROSSI: Yes. You're all under
5 oath.

6 MR. COLELLO: Can I check one thing?

7 MR. ROSSI: Sure.

8 MR. COLELLO: I know it's been beyond
9 30 days, so I'm not losing sleep over it, but I don't
10 know if we've heard from the county, but I know it's
11 beyond more than 30 days. I would have hoped if they
12 gave us a negative I would have been told. I don't
13 know that so I'm going to proceed assuming that
14 there's no problem.

15 MR. ROSSI: Okay.

16 MR. COLELLO: If they haven't
17 responded it doesn't matter, obviously.

18 MR. ROSSI: Right. And, again, while
19 they're two completely separate matters, I'd just be
20 surprised after the use variance. They specifically
21 sent a letter on that one saying that they approved
22 that application, but I know it's two different
23 issues.

24 MR. COLELLO: Yes.

25 MR. ROSSI: I guess the little

1 discussion about the number of people that you have
2 tonight caused us to start considering the odds on
3 the Board. So, I'd like to know kind of -- maybe if
4 I can go over with questions and then ask -- I know
5 it's really kind of up to us, but whether the Board
6 would allow us to defer until a time when you have a
7 fully constituted Board.

8 MR. COLELLO: Let me answer that for
9 you. What we have done in the past, Don, is if
10 there's four members here, obviously, we give the
11 applicant a choice. We have done in the past, if the
12 applicant requested with five members, we have done
13 that as well. If we have six or seven then that's
14 not really an option, but we have five tonight. So,
15 that really if you say I'd like to defer to next
16 month until we have six or seven, it's your call.

17 MR. ROSSI: Okay. And I think that
18 we would like to do it, but given the amount of
19 discussion that we have had on this I'd kind of ask
20 if the Board has any questions. I've been spending a
21 lot of time thinking this out, taking a look at
22 what's gone on and I sat here and written out what my
23 thoughts might be on the various factors. And I
24 just -- if there are issues that the Board has that
25 they think we have not adequately addressed, I know

1 there's been some issues about the site plan itself
2 and I -- one of the things that in going over it
3 myself that I noticed that I don't really know if it
4 was clear previously was the -- was kind of the
5 extent of the design changes that went on in the
6 site.

7 One of the kind of driving factors
8 that resulted in the need for a variance was in
9 addition to the planning board wanting us to stay out
10 of the controlled area was the fact that they wanted
11 to have this 17 foot aisle in between the rows. So,
12 that's really one of the things that kind of drove
13 this to a great degree. We could get -- if we hadn't
14 had that aisle, we would have been able to stay
15 outside the setbacks, basically.

16 MR. COLELLO: Can I ask you a
17 question about the 17 feet, and I'm no expert on
18 this?

19 MR. ROSSI: Yes.

20 MR. COLELLO: Why did they come up
21 with 17 feet? Do you know why?

22 MR. ROSSI: Ed, there were a series
23 of comments. One from the town planning consultant's
24 office, Graham Charleston's office, and another one
25 from others, from Tom Fenton, that kind of focused on

1 the site design and really wanted to designate the
2 aisles because, if you recall, the cars just used to
3 be parked wherever we could put them in.

4 So, one of the earliest comments, and
5 I have copies of all these here, I can submit them to
6 the Board. One of the earliest comments would
7 designate how many cars could be kept on the site,
8 the same question that you all had, I think in going
9 back. So, they said designate the areas where they
10 would be parked and designate an aisle area.

11 I can only say that as is always the
12 case, and Bibbo Associates is the engineer on this.
13 When they deal with Tom Fenton's office, they design
14 to their engineering standards. So, I think because
15 they -- we have two rows of cars proposed on one
16 side. I just think that's what the engineers felt
17 was an appropriate distance that would allow for cars
18 to get in and out.

19 And also, probably most importantly,
20 because I don't think the day-to-day operation of the
21 business was as important to them as access for
22 emergency vehicles. So, I don't -- in specific
23 answer why 17, I don't know why it's exactly 17, but
24 I can only kind of rely on the engineering review
25 because when Bibbo Associates is asked to design an

1 access lane, they kind of pull out their manual and
2 what's necessary for an access lane as far as
3 emergency.

4 MR. COLELLO: Right. Here's what I
5 look at, now I'm not comparing this to a junk yard,
6 but I'm using a junk yard, in my mind, all right. I
7 believe the rule is, in a junk yard in our town, that
8 in the fence area the cars must be a minimum of 10
9 feet from the fenced in area. I believe that's the
10 rule, 10 feet. I could be wrong. I didn't study it.

11 Now, from a safety standpoint, if one
12 of the employees gets into an accident back there,
13 somebody is in trouble because that's Honda hitting
14 Honda, do you see what I'm saying, that's not Ed
15 Colello getting hit back there.

16 MR. ROSSI: That's right, no other
17 vehicles.

18 MR. COLELLO: Just some guy moving a
19 car backs into another so that's no one's problem,
20 unfortunately, but Brewster Honda. And I understand
21 about the fire trucks, for example, but I was
22 thinking 17 feet, that's pretty wide and I don't
23 know, you know.

24 MR. ROSSI: Brian is here. He deals
25 with the operation and he was also at all of the

1 meetings before the planning board. I don't think
2 there was anything other than design criteria that
3 they applied, and I sat there too. I'm kind of
4 surprised why not make that smaller, you then reduce
5 the variance, but really the variance request is not
6 for anything more than what's already out there.

7 I was out there again this morning
8 because it's kind of been occupying a lot of my
9 thoughts these weeks. If you look at the map along
10 that bottom line is -- there's a dashed line. This
11 is actually where the gravel area is now. It extends
12 to this line. And really what's happened is when the
13 planning board asked for us to show these lanes of
14 cars, what happened is in squaring that off we
15 actually are pulling back from where the actual
16 gravel area is now.

17 So, it's kind of -- you know, kind of
18 the squaring of things off and the drawing of lines
19 and then doing things in accordance with, not the
20 planning board, but the engineers, doing things in
21 accordance with their rules. You know, they figure
22 out how wide a space has to be for a car, how long it
23 has to be. And in doing that they come up with this
24 much more kind of organized look and actually pulling
25 back some from where that gravel already exists to

1 get to this.

2 So, I hear your question. I don't
3 have an answer for it. I don't know what a fire
4 truck width is. I don't know if anybody is on the
5 fire department, but one of those big pumpers, you
6 know, one of those big tankers must get off -- get
7 around to be about 10 feet or so. And, I guess, they
8 want to make sure that somebody could -- someone
9 could, you know, have a heart attack while they're
10 going back to get a car and they need to get an
11 ambulance back there.

12 MR. VINK: It could be the turning
13 radius for an ambulance to turn around.

14 MR. FROESSEL: It's got to be more
15 than 17 feet.

16 MR. VINK: I mean to do a three point
17 turn, an ambulance would need more than your regular
18 amount of car room to do that.

19 MR. ROSSI: Whatever it was and,
20 again, I know this Board is not -- the planning
21 board's determinations are not beholdng on your
22 Board. The only thing that I think is obviously
23 important is that they do study it with the
24 assistance of the town engineer in designing these
25 things and this is --

1 MR. COLELLO: But that's not the A&P
2 parking lot, is what I'm trying to say.

3 MR. ROSSI: I understand.

4 MR. COLELLO: That's not me pulling
5 in to get milk and Tom pulling in to get something
6 else and so on, and people pulling in and out. Those
7 cars are there for maybe, I'm just guessing, days,
8 weeks, over that time.

9 MR. ROSSI: Right.

10 MR. COLELLO: And, obviously, no one
11 in this room, except Brewster Honda employees, are
12 going to go in there and backing out.

13 MR. ROSSI: Right, except the
14 building inspector every once in a while. But, I
15 just -- in just thinking out, I'm trying to get an
16 idea of 17 feet width. A basketball hoop is 10 feet,
17 so you're talking about that plus seven. Maybe the
18 idea is they didn't see a need to -- a need for a
19 turning movement in actually doing a K-turn, but to
20 -- or a U-turn, but to at least allow a lot of elbow
21 room for backing out because if a tanker has to go
22 back in there and then they have to back out then,
23 obviously, having some elbow room on either side is
24 going to be important.

25 MR. COLELLO: Just to give you an

1 example, 17 feet is from that wall to that vent,
2 okay, in the ceiling, the end of that tile there.

3 MR. ROSSI: Okay. Again, it's kind
4 of like --

5 MR. COLELLO: It's big.

6 MR. ROSSI: -- it was requested of us
7 and the engineers designed it and the town engineer
8 accepted it and the board issued a neg-dec in
9 connection with it. And, again, I'm sure you've all
10 been out there to take a look at the site. This has
11 gotten so much more consolidated from what the old
12 area was and I think much more organized.

13 So, yes, if I think -- if I can think
14 of where you might be going with the question, if
15 that 17 was reduced and it went down to 14 or 15,
16 then we gain two or three feet that we can come out
17 of that setback. But, just given the site back
18 there, the topography, nothing new is going to be
19 disturbed in this area and we'd just be pushing that
20 two or three feet this way. We won't be gaining any
21 more cars. We'd just have a little less elbow room.
22 So, I don't think that's a significant difference if
23 that got lessened. And God forbid, if anything ever
24 went wrong, we'd probably be happy to have the extra
25 feet there. So, that's one of the things in looking

1 at the design.

2 Another thing in looking at the
3 factors is that we've asked for a variance to zero
4 feet in the front yard, but as you can see and,
5 again -- Paul, I don't know if you can see it, but we
6 have these lanes where the planning board, in
7 connection with its site plan approval, is saying
8 this is where you have to park -- in these.

9 Originally, in order to be kind of
10 erring on the side of completeness, this crosshatched
11 area was included in the variance request, but the
12 planning board is now taking a look at the site and
13 said well, we don't want you parking cars there
14 anyway, you have to park cars in these lanes. So,
15 our request for a front yard variance to go down to
16 zero is really a little bit of overkill and it's
17 really more like eight to 10 feet instead of going
18 all the way down to zero because this, in effect, is
19 the access way in for which I don't really think we
20 technically need a variance, but since it was already
21 gravel, that's what we went into. So, that was --
22 you know, in thinking about is the variance request
23 substantial, that's one of the thoughts.

24 Another one was that while these
25 numbers are going down to 15 or 16 feet on the side

1 yard, going down to zero or to eight feet in the
2 front, those numbers could arguably be considered
3 substantial, but one of the things about this site
4 that I think is very unique, since there's no
5 buildings on it, is we're talking about a site that
6 has -- there could be 45 percent coverage. There's
7 only 20 percent proposed in this so I think that
8 counterbalances like a substantial area.

9 Also, open space requirement on a lot
10 is -- you can't have -- you have to have at least 55
11 percent open space. This is 80 percent without any
12 buildings. So, to me that kind of reduces potential
13 adverse impacts with the variance. So, I really was
14 kind of looking at issues like that and looking at it
15 from what I know -- you know, the comments that the
16 Board has had previously.

17 Another thing that's in the file is a
18 letter from DEP. An issue had come up last time
19 about impervious and pervious surfaces. There's a
20 specific letter from the DEP where they say they have
21 no jurisdiction of this and the only reason for that
22 is because it's -- they consider it impervious, not
23 pervious surface. So, I don't know if there's any
24 other lingering issues that the Board might have,
25 things that I might be able to address on it.

1 It seems, especially going through
2 the factors to consider, that this really does fit.
3 You know, the benefit to the applicant versus impacts
4 on the neighborhood, I think it's been pretty
5 apparent there hasn't been, to my knowledge, anything
6 submitted that shows any adverse impacts, and we have
7 no comments from adjoining owners.

8 I think it's a use that's in keeping
9 with the neighborhood. The only thing that's
10 different about this use from other uses in the
11 neighborhood is that you can't see it. So, that's
12 kind of where we are.

13 I talked to the clients before and
14 they would like to, if we could, defer it. I might
15 summarize these things, if it's being deferred, just
16 summarize it and just give it to you so that if
17 there's questions you can go through it and let me
18 know before the next meeting.

19 MR. COSTELLO: Don, I have a
20 question. You seem to imply that one of the reasons
21 for the need for the variance is the requirement for
22 the access lane. If you hadn't been required to put
23 an access lane in, would you have needed a variance?

24 MR. ROSSI: I don't have it -- we
25 probably -- Tom, in order to stay out of the

1 controlled area, which is kind of the driving force
2 behind this -- these green dashed lines are Jersey
3 barriers, cement things to delineate this. It was a
4 way that was come up -- it was worked out with the
5 planning board to be able to not have to put a fence
6 in. Instead of digging holes and doing that, these
7 barriers would be kind of like glorified curb stops
8 would be put there.

9 So, we -- in order to stay out of
10 that, we necessarily moved this way. We also went
11 this way. And in this corner we probably still need
12 it. It's 35 feet. Subtract 17 from where we are,
13 maybe it's getting pretty close in that area in the
14 corner where we wouldn't need it, but we probably
15 still need a variance going through maybe this center
16 line. See where the 37 cars is listed, probably get
17 us back to there a little bit further if we just take
18 the 17 feet off, but it's balancing -- it's kind of
19 balancing the width of the access line.

20 MR. COSTELLO: If you moved it down
21 to, say, a minimum width, just to move a car through
22 to eight or 10 feet, you would still need a variance?

23 MR. ROSSI: I think so.

24 MR. COSTELLO: You couldn't utilize
25 the lot without some sort of access; right?

1 MR. ROSSI: That's right.

2 MR. COSTELLO: You couldn't just fill
3 up the space with all cars?

4 MR. ROSSI: That's right. We
5 couldn't because the planning board would not give us
6 the site plan.

7 MR. COSTELLO: So with any access,
8 you're going to need a variance?

9 MR. ROSSI: Yes.

10 MR. COSTELLO: It's not being
11 required because of the 17 foot?

12 MR. ROSSI: No.

13 MR. COSTELLO: It was enlarged
14 because the 17 foot, but --

15 MR. ROSSI: I think the answer to
16 your question is yes. I should probably scale it out
17 everywhere, but my feeling is is that if you look at
18 that top line, this one, which is the edge of the
19 existing gravel area, if we were going to comply with
20 the request which -- it's funny, usually I'm before
21 these boards arguing that we should be allowed to do
22 things in controlled areas. But, in this case, I'm
23 arguing that we should be allowed to come out of it.

24 I think if we're going to have a
25 reasonable use of the site for the outside storage

1 use, okay, and I think 115 cars is what's currently
2 designed for this which, I think, is reasonable on a
3 lot of this size. If we're not going to utilize the
4 existing area that's in the controlled area, and we
5 come out of that, and we want to maintain that 115
6 number which, again, is down from 160 that had
7 previously been there then, I think, we would need a
8 variance along that stretch one way or another.

9 MR. COSTELLO: Just so it's clear,
10 the decision to not utilize the controlled area for
11 either driving or parking was a stipulation by the
12 planning board?

13 MR. ROSSI: Yes.

14 MR. COSTELLO: Which you've agreed
15 to?

16 MR. ROSSI: Yes, and which formed the
17 basis of a neg-dec by the board which we offer as,
18 you know, proof that they accepted it.

19 MR. COSTELLO: Okay.

20 MR. ROSSI: There's copies of the
21 neg-dec. So, it's really balancing and weighing
22 those considerations, get out of the controlled area,
23 not encroach really into areas of the site that were
24 previously undisturbed with the exception of this
25 stretch here. So, this area -- again, Tom, I'm

1 showing you on the one in front of you. I'll show it
2 to the Board. I'm happy to show it, but this area
3 was lost. This area was lost.

4 MR. COSTELLO: Right.

5 MR. ROSSI: So, not only was the area
6 closest, but this area also had previously been used
7 for the cars, so that was lost, that was lost. That
8 resulted in this extension of the area outside of the
9 controlled area and up to the -- do you see to the
10 right, 100 foot controlled area? So, we came to
11 that, proposed installation of these barriers and
12 that was all with the planning board's design input,
13 and with both AKRF and Tom Fenton's input. So,
14 that's what kind of resulted in this.

15 It's a pretty substantial amount of
16 cars from 160 to down to 115. 115 I don't think, for
17 a storage area, is a huge number and the variance is
18 -- again, in our opinion, Tom, I don't mean to be
19 speaking for the Board, but in our opinion, not
20 substantial since it accomplishes those benefits of
21 getting out of the controlled area without getting
22 into an area that is having an adverse impact on the
23 neighbor because the -- as is indicated on this, and
24 when you see it in the field it's very dramatic.
25 You're talking about at the bottom of the base, the

1 toe of a slope.

2 MR. COSTELLO: I've been down there
3 several times. I've seen it firsthand.

4 MR. ROSSI: So, making that 17 foot
5 width, cutting it in half, would certainly lessen the
6 variance, but I don't -- you know, respectfully, I
7 don't think that that benefit to be gained by that is
8 addressing a kind of deficiency because of the layout
9 of the land there. It just tucks in there nicely.
10 It maintains that distance. It's a very regulated
11 site, by that very easy to determine that that 17
12 feet is being maintained and that's why -- you know,
13 there's a lot of conflict about this, but I feel that
14 it's a good design and it comes from sound planning.

15 And I looked at this as -- you know,
16 always when applicants come before your Board there
17 might be some degree of skepticism when the applicant
18 stands up there and says we're doing this for this
19 and doing this for this reason, but here you have a
20 very interested town agency or a department that's
21 saying we like this design, we think it makes sense
22 and there's a need for some relief to be granted in
23 order for it to go forward. So, that's kind of the
24 feelings --

25 MR. VINK: Don, just so you know, in

1 making your request to put it over until next month,
2 you may have five again next month because I'll be
3 out of town on business. So, if someone doesn't show
4 up you're going to be in the same boat.

5 MR. ROSSI: Well, I would love if we
6 had a situation where we could poll a Board and see
7 what you feel like and make a decision whether to go
8 forward, but I don't know if you follow that process.
9 I know some boards locally do that.

10 MR. COLELLO: We don't. Do you want
11 to hold over?

12 MR. ROSSI: I think so. Yes.

13 MR. COLELLO: All right.

14 MR. ROSSI: I appreciate it. Any
15 other questions, anytime, please let us know. I
16 would like to summarize this thing.

17 MR. COLELLO: Do you have a question?

18 MS. ECKARDT: Yes. I would like to
19 ask my questions now in case I can't be here next
20 month. I plan to be here, but just in case I'm not.

21 I'm not clear, if no variances are
22 allowed, how many cars can be allowed on this site?
23 I know that question was asked last month, but I just
24 don't think it's been answered.

25 MR. ROSSI: There's two answers, and

1 I don't have the answers off the top of my head. One
2 would be how many would be allowed if we went through
3 the full permit process and sought approvals to park
4 in controlled areas. In that case, and I do this
5 without any -- the land out there is very level from
6 the existing gravel area to the river. With
7 appropriate sedimentation basins and alike that could
8 be installed along -- within the controlled area,
9 which is something that people tell me is not a good
10 thing, but if we installed sedimentations and moved
11 this out and enclosed it over here, I'd just say this
12 off the top of my head, Lynne and the Board, I don't
13 know for certain. I'd say we could double that area
14 probably without any issues and we could go through
15 the process, so that's one question. If we were in
16 the controlled area, I would estimate that we could
17 get about 200 to 250 cars.

18 MR. VINK: I think her question was,
19 if you stay out of the controlled areas and you don't
20 get a variance then it looks like to me you lose 37
21 cars.

22 MR. ROSSI: If they have to live with
23 that 17 it looks roughly -- again, down in this
24 corner, it might need a little recalculation, but I
25 think it's safe to say we'd lose about --

1 MR. VINK: Lose about 40 cars.

2 MR. ROSSI: -- 37. Right. We'd lose
3 about four down here, four or five. Remember, it's
4 35 feet so it's pretty -- it's one inch equals 30
5 feet. So, we'd lose probably a row of cars there and
6 that's 37 cars, that would get us down to 78 cars.

7 MS. ECKARDT: And my follow-up would
8 be, you won't get a negative-dec necessarily from the
9 planning board, this will all have to go back to
10 planning; correct?

11 MR. ROSSI: We have a negative-dec
12 already.

13 MS. ECKARDT: If you want to go into
14 the controlled area, where do we go is my question,
15 because this Board, it's not their purview?

16 MR. ROSSI: If this Board denied -- I
17 don't understand the question. If this Board
18 denied --

19 MS. ECKARDT: You're talking about
20 the controlled areas. You said it was a condition of
21 planning board that you cannot be in a controlled
22 area.

23 MR. ROSSI: There isn't a final
24 approval from the planning board. The planning
25 board's MO is you go to them, you have referrals out

1 to other agencies, you have a public hearing. They
2 adopted a negative declaration and then they say now
3 we've adopted this negative declaration, what's
4 needed, okay. You need a variance, go to the zoning
5 board and get a variance. So, the neg-dec has been
6 adopted.

7 If this Board says to us we're not
8 going to give you the variance to do this then our
9 administrative option is to go to the planning board
10 and say the zoning board didn't like it, they kicked
11 us back to you, we're sorry, but now we have to push
12 the envelope and redesign the site. And once we do
13 that and redesign the site then there would no doubt
14 be a decision that they would change circumstances
15 which would have them revisit SEQRA so that neg-dec
16 would have to be reopened.

17 MS. ECKARDT: And that would in turn
18 go to the new wetlands inspector because there's no
19 more Conservation Commission; correct?

20 MR. ROSSI: I would have to research
21 that, the ebb and flow of the wetlands situation. I
22 think that that's correct from what I know of what's
23 occurred. In lieu of going to the Conservation
24 Commission, we'd have to go the wetlands inspector
25 and the town board.

1 MS. ECKARDT: Do you know, are there
2 any violations? I do not know the answer to this.
3 Are there any village violations or are you fine with
4 the village?

5 MR. ROSSI: No. We're fine with the
6 village.

7 MS. ECKARDT: And you had said that
8 you could have up to 45 percent coverage, but you're
9 at 20 percent; is that right?

10 MR. ROSSI: Let me just double-check.
11 45 percent development coverage.

12 MS. ECKARDT: And so if you had --
13 what would allow you to increase it up to 45 percent?

14 MR. ROSSI: What would allow us?

15 MS. ECKARDT: Yes.

16 MR. ROSSI: If we double the size of
17 the storage area. I mean, if we -- just, again, I
18 don't mean, at all, to be antagonistic or sound
19 overly aggressive. I'm just fielding these as they
20 come.

21 If we had to go back to -- I'm
22 sensitive to everyone and I don't mean to be
23 aggressive on this. If we don't get this variance
24 and the clients decide to go back to the planning
25 board and redesign, then we redesign the site and we

1 try to max out the number of places where we could
2 store and we go and we get into a potentially
3 contentious wetlands process and all sorts of
4 gnashing of teeth ultimately for something that I
5 think we probably could get a permit for.

6 Does that answer your question? I
7 mean, that's where we go.

8 MS. ECKARDT: I'm going to call
9 Riverkeeper.

10 MR. ROSSI: That's okay.

11 MS. ECKARDT: And I have a letter I
12 would like to read into the record for this month's
13 session.

14 Dear Chairman Colello and members of
15 the Board, I'm writing in regard to Brewster Honda's
16 request asking for side and front setback variances.

17 As you know, Brewster Honda was
18 granted a use variance within the past year. And
19 according to this Board a use variance is a rare
20 commodity, with fewer than three granted over the
21 last 20 years. Now Brewster Honda is back asking for
22 these additional variances. Where does it end?

23 The applicant says that these
24 variances will allow them to stay out of the wetland
25 buffer. But then as Chairman Colello so astutely

1 pointed out, one is supposed to stay out of the
2 wetland buffer. Not parking cars in the controlled
3 area is not doing the residents of Southeast or even
4 the City of New York any favors, but rather complies
5 with existing statutes enacted to protect our
6 drinking water.

7 With the village a stones throw away
8 and with Brewster's vision to become a model steward
9 of the watershed it seems a shame that an even larger
10 than presently zoned parking lot will be perched
11 above the Croton River. For any of you who have
12 taken a look, the river is beautiful here and still
13 used by fishermen. And remember, without these
14 variances and due to the unusual use variance
15 Brewster Honda will still retain their property
16 rights and indeed be allowed to park cars here,
17 albeit fewer.

18 Since Brewster Honda completed their
19 purchase of this property less than two years ago it
20 should be obvious that the applicant knew exactly
21 what they were getting into as far as variances
22 sought. While we want our business neighbors to
23 succeed, I am hopeful that Brewster Honda and the
24 Southeast Zoning Board will respect the rights and
25 desires of Southeast residents who want their water

1 quality protected and their current zoning laws
2 enforced. The two are not incompatible.

3 Thanks in advance for your kind
4 consideration.

5 MR. ROSSI: Who's that from? Is that
6 yours, Lynne?

7 MS. ECKARDT: That's mine.

8 MR. ROSSI: So that's a personal
9 letter.

10 MS. ECKARDT: I can get it -- I
11 think, if it would have more impact, I certainly
12 could probably have it signed by concerned residents
13 of Southeast by next month which will have more
14 impact than me.

15 MR. ROSSI: I just would like to say
16 what Lynne just submitted is exactly what we have
17 before you. A project that seeks to minimize the
18 impact to controlled areas, protect the drinking
19 water and not getting involved in any additional
20 disturbance. I think this speaks for itself.

21 The City of New York owns property
22 surrounding this. They, as we all know, can speak
23 for themselves. They've told us they have no
24 jurisdiction. They've asked the planning board in
25 their letter to please ensure that all steps are

1 taken to protect the controlled areas and the
2 planning board said could you get it out of the
3 controlled area guys and make sure we're not in it.
4 So, I think this is very consistent and, really, I
5 believe many of those things are things that have
6 been before the planning board and decided.

7 You also have to make those
8 determinations. I think this kind of speaks for
9 itself. And one of your factors is is something
10 being done here that -- sorry, for leafing through
11 these things -- whether the proposed variance will
12 have an adverse effect or impact on the physical or
13 environmental conditions in the neighborhood or
14 district? The board with experts, the town's
15 experts, not just ours, say this works. They've
16 adopted a neg-dec under SEQRA, got no disturbances,
17 no need to dig sedimentation basins, no runoff
18 issues. That's a factor I think for this Board to
19 consider and I think it speaks for itself.

20 MR. COLELLO: You know, you were
21 getting to me until you said they were town experts,
22 I'm just kidding.

23 MR. ROSSI: Ed, I think Tom Fenton
24 and Greg Patrell's offices are found to be pretty
25 expert.

1 MR. COLELLO: Okay. No other
2 questions? We'll see you next month.

3 MR. ROSSI: Thanks very much.

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11 MR. COLELLO: George and Maryvel
12 Lombardo.

13 MR. COSTELLO: Just a reminder that
14 you're still under oath from last time.

15 MR. LOMBARDO: Yes.

16 MR. COLELLO: Can you give us,
17 Mr. Lombardo, sort of a summarization where we are?

18 MR. LOMBARDO: I propose to put a
19 deck on the rear of my house and it doesn't affect
20 any of the rear and side setbacks. The only problem
21 is the front of the house which is preexisting,
22 nonconforming. And everyone in the area has a deck
23 and I don't know if anybody has been out to see the
24 site, but it's pretty -- with the plans and all, it's
25 pretty cut and dry. Everyone in the area has one.

1 It would be beneficial to the house. It wouldn't
2 impact any of the area, and that's it. I gave
3 everybody a copy of the plans.

4 MR. COLELLO: Okay. I think we're
5 all pretty familiar, obviously, with his neighborhood
6 because of upzoning and things like that. Virtually
7 everyone has a problem with any kind of additions and
8 decks even if they don't change the footprint and go
9 straight up we still have problems, so we're very
10 familiar with it.

11 Do we have any questions of anybody
12 in the audience with regards to this application?

13 MR. COSTELLO: Do you have a diagram
14 of the deck?

15 MR. LOMBARDO: Yes. I gave everyone
16 a copy of it.

17 MR. COLELLO: No. No. I mean, how
18 it's going to be sited on the property.

19 MR. FROESSEL: A survey.

20 MR. LOMBARDO: I have a copy of the
21 survey. I just don't have it on the deck. It's
22 going to be -- if you look at the way this is, this
23 portion here, is this right here. And what happens
24 is, I already have a five by five -- it isn't on here
25 because when I bought the house there were elderly

1 people there and they let it deteriorate so it had
2 just collapsed.

3 So, what happened was I went and got
4 a rear porch and steps in the back. It was a five by
5 five with stairs there so we could get out of the
6 house. That was built there and this was done when I
7 first -- on the first day when I moved into the house
8 I had gotten this.

9 And the other thing was -- so what I
10 was going to do was -- there it is, five by five to
11 here. But, what I'm doing is bumping this out just a
12 bit so you can wrap it around in this area because
13 the way the property is set up is it wouldn't
14 interfere with any of the fields and stuff like that.
15 It would be in an area where it's pretty much cleared
16 where there isn't any type of underground stuff going
17 on over there so everything will be all cleared to go
18 over there.

19 And if you look at it -- if you look
20 at the plans it isn't something that's overbearing.
21 It's a pretty modest deck and that's all it would be.
22 It would just come out to this area right here and
23 just sort of wrapping around and moving the stairs
24 out. This would be the area right here. This is
25 already -- I mean, even with the rear and side

1 setbacks, if you look on the plans, there's something
2 like 67 -- over 67 feet going to the rear setback.
3 Side setbacks wouldn't be interfered because it was
4 -- would be going a little bit in from the edge of
5 the property on both sides and it isn't even touching
6 the 35 on each side so you would be well over the
7 setbacks on that.

8 So, I mean -- and everyone in the
9 area -- so it's a little bit of an inconvenience
10 going up and down seven steps, you know, to go out on
11 the deck and everyone in the area seems to have one
12 on the street themselves. And if you look at the
13 site or my house, my house is -- there's other houses
14 that are even closer to the street than mine are, but
15 that's the way they built them back then, you know.

16 MR. COSTELLO: What is the dimension
17 of the deck?

18 MR. LOMBARDO: I think I have another
19 copy here. You can have that. I thought I handed
20 out a few. It would only be 12 by 14, 12 by 14
21 overall going out to where it wraps around to pick up
22 -- the entrance door is over here and my wife didn't
23 want to interfere. We have sort of a sun room there
24 where there's a lot of windows, so she didn't want to
25 take the windows down and put a sliding door here

1 which would have solved that problem. She wanted to
2 keep the door there and since the stairs were already
3 there, the porch, we just added four feet to that and
4 the stairs would be in this area and just a wrap
5 around so you can get into this area. This area
6 right here.

7 And everything would be clear from
8 all the -- if you look at the way the house is, the
9 property is more longer than it is wider on the
10 thing, so it would only be -- the actual deck, the
11 seating area, would be 12 by 14 so it wasn't -- in
12 terms of decks these days, I think that's pretty
13 modest, you know what I'm saying, just to maybe go
14 out and enjoy a cup of coffee or something like that,
15 you know, and just enjoy the house itself because as
16 it is -- as it sits now, it's almost impossible to
17 enjoy yourself going up and down steps and stuff like
18 that and sort of supervising my son and my wife would
19 be able to sit out there instead of going up and down
20 there and it would conform with the rest of the area.

21 MR. COSTELLO: Thank you.

22 MR. COLELLO: Any other questions of
23 the applicant?

24 Would you like to make any final
25 comments before we close the public hearing?

1 MR. LOMBARDO: No.

2 MR. COLELLO: Do you think you've had
3 a fair and adequate opportunity to state your case?

4 MR. LOMBARDO: Absolutely.

5 MR. COLELLO: Great. Have a seat.

6 Once again, just so we're all on the
7 same page, Mr. Lombardo said, just to understand, the
8 biggest problem they have is the relief from the
9 front yard setback. It seems strange that the deck
10 is going to the back of the house and they have the
11 front yard setback problem and that's because of the
12 fact that it's a preexisting, nonconforming building.
13 So, he's not encroaching on the sides nor is he
14 encroaching on the rear causing a problem. It's the
15 front yard, believe it or not, that's the problem.

16 I'll entertain any motions either in
17 favor of or opposed.

18 MR. COSTELLO: I'll make a motion to
19 grant the variance requested for a 12 by 14 foot deck
20 with a five by seven landing with a staircase.

21 MR. LOMBARDO: Excuse me, it's a --
22 if you look at the plans on that, just the --

23 MR. COLELLO: Mr. Lombardo, we'll put
24 as depicted in the map.

25 MR. COSTELLO: As depicted in the

1 plans.

2 MR. COLELLO: Do I have a second?

3 MR. VINK: Second.

4 MR. COLELLO: Seconded by Paul.

5 Address the criteria, please.

6 MR. COSTELLO: Whether an undesirable
7 change will be produced in the character of the
8 neighborhood or a detriment to nearby properties will
9 be created by the grant of the variance; I don't
10 think so. This neighborhood most houses have a rear
11 deck of that size or maybe even larger, so I think
12 it's definitely in the character of that
13 neighborhood.

14 Whether the benefit sought by the
15 applicant can be achieved by some other feasible
16 method other than a variance; no, the house has been
17 built a long time ago and to build a deck on the rear
18 of the house is really an encroachment on the front
19 yard setback and also an enlargement of a
20 nonconforming structure, so it cannot be done without
21 a variance of some sort.

22 Whether the requested variance is
23 substantial; I would say not. His deck is going to
24 be approximately 29 feet from the front property line
25 where 35 feet is required, so it's approximately a 20

1 survey from the architect and the addition is drawn
2 in.

3 MR. COSTELLO: Okay.

4 MR. COLELLO: So you're really not
5 getting any closer; correct?

6 MR. COSTELLO: To one road.

7 MR. COLELLO: To one road, correct.

8 MR. MARTIN: Yes. It's a corner lot.

9 MR. COLELLO: The rear setback --

10 MR. MARTIN: It's over 25 feet.

11 MR. COLELLO: And that's not
12 changing; correct?

13 MR. MARTIN: No.

14 MR. COSTELLO: Look, the rear is 35
15 required, he has 25, so it's an enlargement of a
16 nonconforming. He's not coming any closer.

17 MR. COLELLO: Right, because he's 25
18 feet there anyway.

19 MR. COSTELLO: Right.

20 MR. COLELLO: That's what I meant,
21 I'm sorry. And the addition is going to give them 36
22 feet, but he's already 30 feet from the garage.

23 MR. COSTELLO: Right. Well, the
24 front setback requirement is 35 so he meets that.

25 MR. COLELLO: Right.

1 MR. FROESSEL: On two sides because
2 he has two front setbacks. It will still meet it
3 with the addition on the second front setback.

4 MR. COLELLO: Do we have any
5 questions of anyone in the audience regarding this
6 application? Do we have any questions from any of
7 the Board members?

8 MR. VINK: No.

9 MR. COLELLO: Do you have any final
10 comments you would like to make before we close the
11 public hearing?

12 MR. MARTIN: None.

13 MR. COLELLO: Do you think you've had
14 a fair and adequate opportunity to state your case?

15 MR. MARTIN: Absolutely.

16 MR. COLELLO: Great. Have a seat.
17 We'll give you this back when we're done.

18 If you look at Ron's letter the
19 applicant is denied because of the insufficient rear
20 setback. Again, they're not encroaching the rear
21 setback which, obviously, they need 35 feet. They're
22 only 25 feet now, but the addition which will run
23 parallel, so to speak, to the property line in regard
24 to their existing dwelling, again, is an extension of
25 a house or a dwelling that's already preexisting,

1 nonconforming. So, it's the rear setback is the
2 problem with the application.

3 I'll entertain any motions either in
4 favor of or opposed. I'll make a motion to grant the
5 variance to grant the applicant relief from the rear
6 setback where the distance requirement is 35 feet.
7 The proposed addition which will be no closer than
8 the actual existing dwelling will only be 25 feet
9 from the rear property line. Do I have a second?

10 MR. FROESSEL: Second.

11 MR. COLELLO: Seconded by Tim. I'll
12 address the criteria.

13 Whether an undesirable change will be
14 produced in the character of the neighborhood; I
15 don't think so. A, it's a corner lot and B, it's
16 really not getting -- as I said, it's not getting any
17 closer to the rear property line. Again, we have a
18 neighborhood where any type of addition does warrant
19 a variance because of upzoning and not that that's a
20 bad thing, it's something that the residents in that
21 neighborhood have to live with. And I think that
22 there have been so many additions being put up there,
23 in a good way, and I don't think it will produce any
24 change in the character of the neighborhood.

25 Whether the benefit sought by the

1 applicant can be achieved by some feasible method
2 other than a variance; I don't see how because
3 they're already 25 feet from the rear property line.
4 So any addition, unless they put a very thin narrow
5 addition that probably wouldn't be much of an
6 addition, I don't know if there's any other way to do
7 it.

8 Whether the requested variance is
9 substantial; well, 35 feet is required. They have 25
10 feet which someone might look at that at first blush
11 and say it is substantial, but once again I'll go
12 back to the fact that they're not encroaching the
13 rear property line. They're not getting any closer
14 than they are now. So, I don't think that has to
15 have something in play with looking at the size of
16 the substantiality of the variance.

17 Whether the proposed variance will
18 have an adverse effect of impact on the environmental
19 conditions in the neighborhood; I think it will have
20 none.

21 And whether the alleged difficulty
22 was self-created; again, the applicant wants to put
23 an addition. They live in a dwelling -- a home
24 that's preexisting, nonconforming so that anything
25 they do will require a variance. So, I don't really

1 feel that you could call that self-created.

2 With that roll call vote. We'll
3 start with Joseph.

4 MR. CASTELLANO: In favor.

5 MR. COLELLO: Tim.

6 MR. FROESSEL: In favor.

7 MR. COLELLO: Tom.

8 MR. COSTELLO: In favor.

9 MR. COLELLO: Paul.

10 MR. VINK: In favor.

11 MR. COLELLO: And I'm in favor as
12 well, so you're all set. Good luck. Do you want
13 this back?

14 MR. MARTIN: That's our last copy.

15 MR. COLELLO: That's your only copy,
16 you better take that back.

17 MRS. MARTIN: Thanks.

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25 MR. COLELLO: Robert Sechny.

1 MR. COSTELLO: Just a reminder that
2 you're still sworn in from last month.

3 MR. COLELLO: Okay. Can you give us,
4 Mr. Sechny, your the treetop version, so to speak?

5 MR. SECHNY: Yes. We want to add a
6 deck to the rear of our house, 14 feet by 20 feet.
7 However, since it is an addition to a nonconforming
8 structure our permit was denied. It does not impact
9 the front or side setbacks. It would be visible from
10 only two houses since we have no neighbors behind us,
11 and that's really about all we have to say.

12 MR. COLELLO: Do you have a copy of
13 the letter of denial? I don't have one. Do you have
14 a copy of Ron Harper's letter? Thank you.

15 MR. COSTELLO: Do you have a survey
16 that shows where you're planning to put the deck?
17 This is an L shape house and the deck is to the rear?

18 MR. SECHNY: Correct.

19 MR. COSTELLO: Do you see it?

20 MRS. SECHNY: There's woods in the
21 back.

22 MR. COSTELLO: You'll get these back.

23 MR. COLELLO: Any questions or
24 opinions from anyone in the audience? Do we have any
25 other questions of the applicant?

1 Is there any final comments you'd
2 like to make before we close the public hearing?

3 MR. SECHNY: No, thank you.

4 MR. COLELLO: Do you think you've had
5 a fair and adequate opportunity to state your case?

6 MR. SECHNY: Yes, I do.

7 MR. COLELLO: Have a seat.

8 MR. SECHNY: Thank you.

9 MR. FROESSEL: Another 138-11.

10 MR. COLELLO: Make yourself
11 comfortable. As Tim just mentioned, another 138-11.
12 We should just be able to say this is a 138-11
13 variance and make life a lot simpler.

14 MRS. SECHNY: Will it make it
15 cheaper?

16 MR. COLELLO: I don't know about
17 cheaper. It will make it faster.

18 I'll entertain any motions either in
19 favor of or opposed.

20 MR. FROESSEL: I'll make a motion to
21 grant the applicant a variance to construct a 14 by
22 20 foot deck as depicted in the survey that's been
23 submitted to the Board.

24 MR. COLELLO: Any second?

25 MR. CASTELLANO: I'll second.

1 MR. COLELLO: Seconded by Joseph.

2 Would you address the criteria, please?

3 MR. FROESSEL: Yes.

4 Whether an undesirable change will be
5 produced in the character of the neighborhood or a
6 detriment to nearby properties will be created by the
7 grant of the variance; it's certainly not an
8 undesirable change in the neighborhood. Most
9 everybody in Brewster Heights has a deck so it's very
10 much in keeping with the character of the
11 neighborhood.

12 Whether the benefit sought by the
13 applicant can be achieved by some feasible method
14 other than a variance; no, because of the fact that
15 virtually every house in Brewster Heights is
16 preexisting, nonconforming. The applicant really
17 can't do anything without a variance.

18 Whether the requested variance is
19 substantial; it's not. It's not encroaching on any
20 of the nonconforming setbacks so it's not really
21 changing the nonconformity of the property, at all.

22 Whether the proposed variance will
23 have an adverse effect or impact on the environmental
24 conditions in the neighborhood; no, there won't be
25 any.

1 Whether the alleged difficulty was
2 self-created; it's not self-created. It's due to the
3 fact that Brewster Heights was developed at around
4 the time the town was coming out with the zoning
5 ordinances.

6 MR. COLELLO: Okay. Roll call vote,
7 Paul.

8 MR. VINK: In favor.

9 MR. COLELLO: Tom

10 MR. COSTELLO: In favor.

11 MR. COLELLO: Tim.

12 MR. FROESSEL: In favor.

13 MR. COLELLO: Joseph.

14 MR. CASTELLANO: In favor.

15 MR. COLELLO: And I'm in favor as
16 well, so you're all set. Do you have more than one
17 copy of this?

18 MRS. SECHNY: Not with us, no.

19 MR. COLELLO: Can I have this?

20 MRS. SECHNY: Because?

21 MR. COLELLO: Because I'd just like
22 it to go to the application.

23 MRS. SECHNY: Sure. I thought we
24 submitted one.

25 MR. COLELLO: I can't find it. I

1 could lie to you and say it's somewhere else. You
2 can have that back. Let us keep this.

3 MRS. SECHNY: Okay. You got it.

4 MR. SECHNY: Okay.

5 MR. COLELLO: You're all set.

6 MR. SECHNY: Thank you.

7 MRS. SECHNY: Thank you.

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15 MR. COLELLO: William Ratajack. You
16 don't look like Mr. Ratajack.

17 MR. GREENBERG: No, I don't. They're
18 on vacation.

19 MR. COSTELLO: Could you state your
20 name for the record?

21 MR. GREENBERG: Joel Greenberg,
22 architect. I was sworn in at the last meeting.

23 MR. COSTELLO: You were, so you're
24 still sworn in.

25 MR. GREENBERG: So, I'm still sworn

1 in, yes.

2 MR. COLELLO: Can you give us again
3 the treetop version?

4 MR. GREENBERG: Okay. How high?

5 MR. COLELLO: Eight feet.

6 MR. GREENBERG: The Reader's Digest
7 version.

8 MR. COLELLO: A bush version.

9 MR. GREENBERG: Okay. This piece of
10 property is located on Shore Drive right on Lake
11 Tonetta. As you can see from the survey, it's a
12 fairly large lot. The house is fairly close to the
13 northern property line. And we're proposing to put a
14 garage on the first floor and extend the master
15 bedroom on the second floor.

16 Again, as you can see from the tax
17 map here, the lot that's most affected by this is a
18 public beach area, so that the nearest house, even to
19 the addition, is over 225 feet from our addition to
20 the next house. The other direction it's, obviously,
21 quite far away.

22 The reason for the location, if
23 you've been to the property, you'll see the road is
24 pretty high. You have a steep driveway coming down
25 and then it levels off by the house. The septic is

1 in this area over here. Again, the most logical
2 place, because of the location of the garage and
3 mudroom, is to have the entrance from the garage into
4 the mudroom versus coming in where the living room
5 and dining room is located.

6 Again, we feel by doing it this way,
7 even though we need a fairly substantial variance, it
8 is really not affecting anybody in the neighborhood.
9 As you saw in the pictures from last month, this is
10 the picture of the beach house next door. The area
11 directly between the two properties is very heavily
12 landscaped and wooded with trees. As you can see
13 right here now, where the garage is going, is where
14 they park their cars. It's already paved. It's
15 already an impervious surface.

16 This was the extension of the master
17 bedroom. This is what the house is going to look
18 like extended. I think the architecture will look
19 very nice extending the existing roof line with the
20 two additional dormers and we're adding a nice front
21 porch onto the existing house which I think will
22 enhance the architecture of the house. Again, as I
23 said before, it's a fairly large lot and where this
24 addition is going it will not affect anyone in the
25 neighborhood or adjacent property.

1 MR. COLELLO: Can I ask you a
2 question? It's very nice facade, don't get me wrong,
3 but are you sure that's what it's going to look like?
4 I'll tell you why I say that, how many applications
5 have we had where we looked at the facades of these
6 buildings and say wow, that's going to really spruce
7 that up, it's going to look gorgeous and boom, I
8 drive by and I'm like that doesn't look anything like
9 the facade we were looking at.

10 Is that carved in stone what it's
11 going to look like?

12 MR. GREENBERG: Yes. I would say
13 I've gone over this with the Ratajacks. This project
14 started quite a few months ago and, again, this is
15 what is there now so it really would not make much
16 sense to do anything but sort of replicate what's
17 there. To put something totally different here --

18 MR. COLELLO: Those are the windows
19 that are there now?

20 MR. GREENBERG: This is what's there
21 right now.

22 MR. COLELLO: Those are the actual
23 windows now?

24 MR. GREENBERG: These?

25 MR. COLELLO: On the bottom.

1 MR. GREENBERG: Oh these, no.

2 MR. COLELLO: I have to tell you, I
3 was there, and it didn't look like that to me.

4 MR. GREENBERG: It shows -- you can
5 see the dotted line here.

6 MR. COLELLO: So that's going to be
7 replaced. The front door?

8 MR. GREENBERG: The front door is
9 going to be replaced. This is a whole new elevation
10 -- you asked me about the roof line and I'm telling
11 you.

12 MR. COLELLO: No, I didn't. I said
13 the facade. I said is it going to look like that.

14 MR. GREENBERG: Yes.

15 MR. COLELLO: I didn't say the roof
16 line.

17 MR. GREENBERG: I thought you were
18 talking about the roof line.

19 MR. COLELLO: No. It is very nice,
20 don't get me wrong. I would just love to see it end
21 up looking like that, that's all I'm asking.

22 MR. GREENBERG: Absolutely.

23 MR. COLELLO: That's all.

24 MR. FROESSEL: Ed, before we get too
25 deep into this, just to be fair to the applicant, I

1 have to abstain from voting on this one because I
2 only recently found out that I have to be a member of
3 the community association next door to that. My wife
4 apparently joined.

5 MR. GREENBERG: And didn't tell you?

6 MR. FROESSEL: Basically.

7 MR. COLELLO: She could have joined
8 the Porch Club of America and not told you too, but
9 that would have been a lot more expensive.

10 MR. FROESSEL: I probably would have
11 noticed that in the bank statement.

12 MR. COLELLO: All right. So, now you
13 have a decision to make.

14 MR. GREENBERG: We'll proceed.

15 MR. COLELLO: You'll proceed with
16 four.

17 MR. GREENBERG: Yes.

18 MR. COLELLO: Okay. Any questions?

19 MR. COSTELLO: One of the criteria
20 you need to consider is is this the minimum amount of
21 relief necessary. What is the size of that garage or
22 the addition?

23 MR. GREENBERG: The floor plan is
24 basically a two car garage. These stairs, which go
25 down to the basement already, exist. So, we've lost

1 approximately three and a half feet. So, the
2 addition -- basically it's a 24 foot garage from the
3 stairs to the end and it's 30 feet in the other
4 direction. Again, front and rear are conforming
5 already so they only need variances to the side.

6 If the stair wasn't here we probably
7 could have moved it over about three feet so we've
8 lost three feet because of the stairs here. But, on
9 the other hand, we're also having a side door here
10 when this -- this can be used as -- you know, for
11 boots and stuff like that so it actually serves as a
12 dual purpose.

13 MR. COLELLO: And the big reason is
14 you can't go right is because of the septic; correct?

15 MR. GREENBERG: Yes.

16 MR. COLELLO: You have to keep it
17 there?

18 MR. GREENBERG: Yes. Again, as you
19 know, with the rules and regulation of the Health
20 Department, any revision of a septic system,
21 especially so close to the lake, will eliminate this
22 basically. And, of course, the other problem is the
23 well is up on top here so that we really could not
24 move the septic system.

25 MR. COLELLO: I have one question. I

1 don't know if you can answer this for me. The day I
2 was there I didn't go on the property. I just parked
3 at the top of the driveway. I could see from where I
4 was everything I needed, but there was a lot of work
5 being done up at the top in this area. Do you know
6 what's going on over there?

7 MR. GREENBERG: No. The last time I
8 was there, which was several months ago, basically
9 there was a turnaround here.

10 MR. COLELLO: Right. In that
11 turnaround, what is that a shed there?

12 MR. GREENBERG: Yes, an existing
13 shed.

14 MR. COLELLO: It looked like -- I
15 don't know if they were building a wall or something
16 over there. I didn't want to bother them. They were
17 deep in their job. Okay. I was just curious if you
18 knew.

19 MR. COSTELLO: Do you have a site
20 plan of the septic system? It seems to be somewhat
21 loosely defined on your drawing.

22 MR. GREENBERG: Yes. I mean, I could
23 based on -- what's happening there is that the
24 plumbing is in area. The kitchen is back over here.
25 You've got the tank coming out like this. Again, the

1 slope is coming down this way and then you're coming
2 out to several junction boxes and the fields are
3 going in this direction like this. This is -- 10
4 feet from the house is the tank and the fields, as
5 required by the code, are 20 feet from the house.

6 MR. COLELLO: And they're straight
7 off?

8 MR. GREENBERG: Yeah. They go
9 basically in a north/south direction because what's
10 happening, you always put your fields parallel to the
11 grade. So the grade is coming across, down and then
12 levels off so they're coming across this way.

13 MR. COLELLO: I didn't know that.

14 MR. GREENBERG: Because if you think
15 about it it makes sense because if you put it on the
16 slope it will just go right down to the bottom.

17 So, to finish answering your
18 question, this would be obviously a tremendous burden
19 to have to relocate.

20 MR. COSTELLO: How large is the lot?

21 MR. GREENBERG: The lot itself, hold
22 on. Actually, I have the survey.

23 MR. VINK: It says 1.8.

24 MR. COLELLO: That big.

25 MR. GREENBERG: It's almost two

1 acres.

2 MR. COLELLO: I knew it was big. I
3 didn't know it was 1.8.

4 MR. VINK: From the street down the
5 far side of the property because it's not quite
6 square.

7 MR. GREENBERG: Don't forget on one
8 side you have 466 feet on one side and 339 on the
9 other side and plus the fact this a Lake Tonetta
10 subdivision, it's actually five subdivision lots.
11 And I believe, and you guys know it probably better
12 than I, but I believe my client told me at one point
13 there was some kind of clubhouse -- something was on
14 here before this became a house and I don't remember
15 exactly what it was

16 MR. COSTELLO: It was Clancy's Beach
17 House.

18 MR. GREENBERG: Beach house, so I
19 wouldn't too far off.

20 MR. COSTELLO: It just seems to me
21 that a lot that's almost two acres that's building a
22 brand new garage doesn't need to encroach that
23 dramatically on the side set back.

24 MR. GREENBERG: Again, but look where
25 the house is.

1 MR. VINK: Is there any reason you
2 couldn't put the garage over here at the end of the
3 driveway -- over on this side, off the porch?

4 MR. GREENBERG: Then I would have to
5 ruin Ed Colello's front elevation.

6 MR. COLELLO: It's not mine.

7 MR. GREENBERG: I'm just teasing.
8 Again, we certainly wouldn't want to block the front
9 of the house, if you understand that. And the other
10 thing is that, again, if you look at the upper floor
11 plan, the master bedroom is extremely small and the
12 other second purpose of putting it over here was to
13 be able to extend the master bedroom. The master
14 bedroom right now is 12 by 13.

15 MR. COSTELLO: So, it's not just a
16 garage. It's a garage with a master bedroom?

17 MR. GREENBERG: Of course, which is
18 what I said in my initial presentation. I will say
19 this, though --

20 MR. VINK: This is a double --

21 MR. GREENBERG: Two stories looking
22 down.

23 MR. VINK: That impacts whether you
24 put it there, too.

25 MR. GREENBERG: Yes. And the other

1 thing is going back to Tom, what you had said
2 before -- actually, let me just check something here
3 before I -- if the Board feels, you know,
4 uncomfortable with the size of the addition and the
5 closeness to the property line, you know, I think
6 that with -- if the Board would like to see this back
7 a little bit further, I think we can certainly
8 compromise with the Board in coming back a couple of
9 feet and making this instead of 11.7 we could make
10 it, let's say, 13.7 which would reduce it to less
11 than half of the 20 foot requirement. We certainly
12 can accept that as a condition.

13 MR. COLELLO: Any other questions?

14 MR. COSTELLO: Just as one Board
15 member, I would like to see more explanation as to
16 other sites that were considered on the property for
17 the garage. A lot that's two acres to encroach that
18 closely troubles me. You know, we see a lot of
19 Brewster Heights applications and Tonetta Heights as
20 well, but this is good sized lot for any neighborhood
21 in our town and --

22 MR. GREENBERG: Yes.

23 MR. COSTELLO: -- just because it
24 gives the most convenience to locate it there doesn't
25 mean that the neighbor, even though it's a public

1 beach, should be impacted by having a garage built
2 less than 10 feet or whatever it is.

3 MR. GREENBERG: It's almost 12 feet.

4 MR. COSTELLO: Okay, 12 feet.

5 MR. GREENBERG: Okay. I'll answer
6 your question. Again, if you look at the impervious
7 surfaces that are here, this is already an impervious
8 surface. I mean, the goal, based on the New York
9 City watershed regulations, is to try to limit
10 impervious surfaces on a piece of property. So,
11 basically, number one, we would not be increasing any
12 impervious surfaces.

13 Putting it to the south, as I
14 mentioned, would encroach upon the septic system.
15 Putting it in the front I think would basically
16 destroy the architecture and the front of the house
17 would be blocked, basically, if you put it at the end
18 of the existing turnaround area over here.

19 And, again, even though this is a
20 beach area, again, based on the pictures for anyone
21 who hasn't been out there, you would see that -- you
22 can actually see it right over here that this is
23 already very heavily shrubbed and treed so that even
24 though it's fairly close to a beach area there's no
25 one living here on a permanent basis. It's only used

1 several months out of the year during the warm season
2 and, most importantly, it's not going to be seen.
3 Plus, the fact that, again, as you can see, the cars
4 are parked -- that's where they park their cars right
5 now. So, all we're doing is basically covering up
6 the cars that are being parked there right now.

7 MR. VINK: Well, there's a pretty
8 large difference between parking cars and covering
9 the cars with a two story building.

10 MR. GREENBERG: I understand that. I
11 think that the fact that we were not increasing the
12 impervious surface is an important factor in this
13 case.

14 If there's anything else the Board
15 would like us to look into, I'll certainly be happy
16 to do that.

17 MR. COLELLO: Do you want anymore
18 done?

19 MR. COSTELLO: I've asked for it, but
20 he doesn't seem to think he has to offer it.

21 MR. GREENBERG: No. I said if you
22 want us to actually, you know, draw several different
23 concepts just so, you know, you can feel satisfied
24 that is the only location, I said I would be happy to
25 do that. That's not a problem.

1 MR. COLELLO: That would probably be
2 a prudent thing to do.

3 MR. GREENBERG: Yes, that's why I'm
4 offering it.

5 MR. COLELLO: So, if I'm hearing you,
6 you'd rather not vote on this tonight?

7 MR. GREENBERG: Yes.

8 MR. COLELLO: We'll see you next
9 month.

10 MR. GREENBERG: Okay. Just so I
11 understand it, what we'll do is actually draw to
12 scale the septic system and then show you different
13 ideas of putting the proposed garage in different
14 areas and showing the pluses and minuses; is that a
15 fair statement?

16 MR. COSTELLO: That would be fair.
17 Thank you.

18 MR. COLELLO: And the first thing I
19 would love to see you do is if you can put exactly
20 where the fields are, where they stop and so on. I
21 know you're probably close right now, but --

22 MR. GREENBERG: We'll draw it to
23 scale so you actually see.

24 MR. COLELLO: Okay. That would be
25 great.

1 MR. GREENBERG: See you next month.

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9 MR. COLELLO: Fiona Hollands.

10 MR. COSTELLO: Just a reminder that
11 you're still sworn in from last month.

12 MS. HOLLANDS: Okay. This is the
13 letter I know you're going to be asking for it and I
14 only have one copy of these photos.

15 MR. COLELLO: Thank you.

16 MS. HOLLANDS: This is a drawing that
17 was prepared by an environmental consultant. It's
18 the survey with the fence that we are seeking a
19 variance for superimposed on it so you can see that
20 and here I also got this so it's easier for you to
21 see.

22 MR. COLELLO: It looks like Texas, a
23 little smaller.

24 MS. HOLLANDS: Okay. I'm Fiona
25 Hollands and I was here last month, if you remember.

1 I'm seeking a variance to put up a deer fence around
2 our property at 76 Dingle Ridge Road. I don't know
3 if any of you actually received a copy of a letter
4 that I sent you since the last meeting. It's number
5 -- it's the fourth from the back page in the package
6 that I just gave you. You did get it. The letter
7 was just -- I know I can't make any demand about
8 people going to visit the property, but it was just a
9 request if anybody had the chance to go and visit.

10 MR. COSTELLO: I live on the street
11 so I visit it every day as I go by.

12 MS. HOLLANDS: Did anybody have a
13 chance to?

14 MR. COLELLO: I drove by it. I
15 didn't walk the property. I didn't get out. I'm
16 familiar with the property and where it is.

17 MS. HOLLANDS: Okay. So any case,
18 these photos here show the front of the property
19 because I think that's the area of the greatest
20 concern, but the front page of the package shows the
21 property and the red outline is the -- is one type of
22 fence that would basically be a deer fence with cedar
23 posts spaced eight to 10 feet apart with a black wire
24 mesh stretched across it. Although the front part --
25 I didn't put it in a separate color because I was

1 running out of colors, but in any case the -- let me
2 show you -- right here. This part across here is a
3 250 foot stretch would be an iron railing as opposed
4 to the other kind of fence. You have that actually
5 right on the bigger map is in red. The green part,
6 the little stretch there is a preexisting stockade
7 fence that -- I don't know who put it there. It may
8 have been the town because it drops to the stream, a
9 seven foot drop which would be a hazard for traffic
10 on the road and then blue, we have a stream on the
11 front of the property.

12 Lastly, on the front outline in
13 pencil there's septic fields. There are two, a large
14 one for the house and a smaller one for the cottage.
15 They're more accurately on this map, but I find this
16 rather hard to look at because it has so many things
17 on this.

18 In any case, if I go through the
19 points on the letter that I've written to you -- I
20 just want to, first of all, give some background on
21 the house and also the neighborhood which it seems
22 some of you know quite well already. The property is
23 14 and a half acres and it is a section of the
24 original 400 acre Ives Farm property. Our lot
25 includes the main farmhouse and two associated dairy

1 barns and parts of these buildings date back to 1790,
2 so we've been told. Most of the surrounding area has
3 already been converted to residential property,
4 although there is a horse farm behind us and 400
5 acres of empty lot in front of us.

6 Since we bought the property about
7 three years ago we spent a great deal of time and
8 effort restoring the farmhouse and separate garage
9 and we've cleaned up a very littered landscape and a
10 lot of the overgrown invasive species that have been
11 developing there over the last 30 to 50 years.

12 We have recently obtained a wetland
13 permit and building permission to rebuild the two
14 barns and restore the stream area and replant the
15 wetland area with appropriate vegetation. Also, over
16 the last two to three years we removed very large
17 numbers of dead and diseased trees from the property
18 and many species of invasive plants and trees. And
19 this year we began to replant the site. The letter
20 is slightly inaccurate in the amount, 286 native and
21 ornamental trees and shrubs that we've planted so far
22 this year and many more perennials.

23 As I'm sure many of you know from the
24 neighborhood, it's quite apparent that the excessive
25 grazing of the native plant species by deer has

1 basically asking instead of doing a six foot fence
2 whether we can do an eight foot fence because that
3 will allow us to make it transparent and still stop
4 the deer jumping over. We think that having an eight
5 foot transparent fence would be a lot more
6 appropriate to the neighborhood than a six foot
7 opaque fence which is what we're already allowed to
8 do without the variance.

9 MR. COSTELLO: Can you describe what
10 a transparent fence is?

11 MS. HOLLANDS: Yes, I have actually
12 -- I have these which gives specific details of the
13 fence. I'll pass those out. The one that -- so the
14 railing which is 250 feet that would be across the
15 front would be the middle of the top up there, which
16 is picket style. And then the other one would be
17 cedar posts with a wire mesh and I have a catalog
18 here that shows a picture.

19 I was going to show you this picture
20 anyway because -- it's not the exact thing that we're
21 looking to do, but something that would give you a
22 reasonable idea. So if you see this fence back here,
23 it has the posts, we would not have the rails across
24 it, it would just be the posts, obviously, higher and
25 that kind of a mesh. One thing I'd just like you to

1 look at when you look at this, if you look at the top
2 section here, you see the black kind of disappears
3 because it's in the shadow of the trees and the
4 bushes whereas the bottom part it's very light green,
5 it's against the grass and you can see it much more,
6 so that's what I mean. Here, of course, we would not
7 have the split rails across. This would just be the
8 posts with a mesh across it. Does that answer your
9 question?

10 MR. COSTELLO: Thank you.

11 MS. HOLLANDS: That explains the part
12 around the sides and the back. The road front and up
13 to 100 feet back from the road, we have a bigger
14 problem which is we're only permitted a fence of
15 three feet at the property line. Obviously, that's
16 very unlikely to prevent the deer jumping whether
17 it's opaque or transparent.

18 If we wanted a fence up to eight feet
19 high around the front of the property we would have
20 to move in 67 feet from the property line. So, we
21 would be coming in -- this picture is probably easier
22 to show it. Where is Dingle Ridge Road? Here.
23 Okay. So, we would be coming in along here and
24 cutting around here and along here.

25 So, it give us a couple of problems

1 if we went 67 feet back. We've got septic fields on
2 this part which we're not supposed to -- can you see?
3 Septic field on one side and then we go across here
4 and I forgot to color this one in blue. We have the
5 pond. Actually, I actually measured it from 67 feet
6 back and we would be going in through the pond here
7 which we're not allowed to do.

8 We did go before the Conservation
9 Commission about the fence and they would permit us
10 to put it at the edges where there's already a fence
11 here so we would meet it at either end. And at the
12 back we couldn't cross the water, but there is a
13 grass bridge so we would be able to traverse it
14 there. So, those are two places where we could cross
15 the water without actually touching the water because
16 it would go above the water.

17 So, as I said, the front I think we
18 would have two choices under the current code. We
19 could put a three foot fence right at the property
20 line which, if you know the road, we have a stone
21 wall here with a tree line behind it. So, we could
22 put a fence right behind the wall here, between the
23 wall and the trees and that would be three feet high.
24 I don't think it would do us any great good in terms
25 of keeping the deer out. It's possible that if we

1 have a three foot opaque fence there plus whatever is
2 about three feet -- I think it's actually two feet,
3 two and a half feet, it might help, but that doesn't
4 help all the way along because it's only here that
5 it's raised at certain point. The stone wall is
6 actually at the level of the road and so we wouldn't
7 get high enough.

8 Also, I don't think it would be that
9 great to put something right out there on the road
10 front. I also don't think it's going to look very
11 nice. If you see here, this is looking from the
12 house side, what the trees look like. The road is
13 immediately behind it. So, we have the tree line and
14 then it's lawn because of the septic field. This
15 area is all clear and it has to remain clear for the
16 septic area.

17 So, our proposal would be to not put
18 the fence on the road front and not put it 67 feet in
19 to the lawn because that makes it much more visible.
20 And, as I showed you on that picture, if you put a
21 fence against or that mesh against grass you see it
22 much more clearly than if you put it against the
23 trees where it pretty much disappears. The posts
24 wouldn't disappear completely, the cedar posts. It
25 would look almost like the tree trunks anyway.

1 So, we would like to see if we can
2 put it closer to the tree line where you wouldn't see
3 it from the road because the trees would be in front.
4 You would see it in certain parts. There are some
5 gaps. We're working with our tree counselor to fill
6 in as much around the edges as possible. You'd see
7 it less from the front because it wouldn't be sitting
8 out in the middle of the lawn where it's very obvious
9 and it wouldn't be right on the road front either.
10 It would be behind the trees.

11 MR. COLELLO: From the road, it would
12 be behind the trees?

13 MS. HOLLANDS: Behind the trees, yes.
14 In fact, we want to see if we can get as close to the
15 -- I mean, we'd try and follow the tree line because
16 we don't want to damage the trees either. If we put
17 it too close to the trees it's going to upset the
18 roots so it would be between eight and 24 feet. I
19 went around measuring sort of along there. So,
20 again, not in the middle of the road -- not in the
21 middle lawn, but where we think it would be least
22 visible from the road front or from the other side or
23 sides.

24 MR. COLELLO: Can I ask you a couple
25 of questions?

1 MS. HOLLANDS: Yes.

2 MR. COLELLO: It's none of my
3 business. Obviously, this is a big undertaking, a
4 very expensive undertaking, obviously, to put this
5 fence in.

6 MS. HOLLANDS: Yes, the whole
7 property.

8 MR. COLELLO: Yes, absolutely. And
9 the plantings have probably cost you a small fortune
10 and continue to. But, I guess, my question is have
11 you thought about trying to fence in -- if it's your
12 concern about the deer and things like that, trying
13 to fence in -- you've got a big beautiful piece of
14 land, maybe sort of the 10 acres -- I'm just using a
15 number -- 10 acres of it in the back, okay, as your
16 own private arboretum, so to speak? Have you thought
17 about doing that type of thing?

18 MS. HOLLANDS: We have thought about
19 many different options. One of the problems, though,
20 is -- first of all, we have the stream and the pond
21 which gives us -- if we want to try and close in an
22 area we have to exclude --

23 MR. COLELLO: Isn't that in the
24 front?

25 MS. HOLLANDS: It cuts across. Where

1 is the good one? You got the better one. I must
2 have spent more time on this piece than the others,
3 sorry about that. So, where is the -- let's put it
4 here.

5 MR. COLELLO: Here's the road and
6 your home is right over there?

7 MS. HOLLANDS: Right here.

8 MR. COLELLO: Right?

9 MS. HOLLANDS: Yes.

10 MR. COLELLO: I'm not telling you.
11 I'm just trying to throw an idea at you. Where did
12 you put most of your plantings? Obviously not over
13 here because your septic is all grass over here.

14 MS. HOLLANDS: Well, right here we
15 have them. I'll tell you one thing, we put a lot of
16 plantings right in this corner because a dear
17 neighbor who lives here actually used to own the
18 house -- her parents owned the house and we're quite
19 friendly with them. She didn't really want to see
20 our house from her house. When we cleared a lot of
21 the invasive species the view became clearer. So,
22 she said, okay, do you mind when you start your
23 plantings could you start over here. So, first thing
24 we did was we put some evergreens down here and we
25 put a lot of natives right in this corner. This is a

1 woodland area anyway. If you come up the road this
2 looks like woods here and then it only starts lawn --

3 MR. COLELLO: Have you thought about
4 just, for example, fencing in these probably eight or
5 10 acres right in here as opposed to going all around
6 the road frontage and so on?

7 MS. HOLLANDS: We have thought about
8 that, but I don't know if you had a chance to walk
9 around the property.

10 MR. COLELLO: No.

11 MS. HOLLANDS: This is the most
12 boring part of the property, to be honest with you.
13 This is one of the reasons I made the request. It is
14 an astounding piece of property from the point of
15 view that it has many different sort of little
16 ecological sites. There's a wetland area here.
17 There's another sort of little wetland type area
18 here. There is one along here where there's a tree
19 line. This is basically open field and here is
20 pretty much open field.

21 But, the kind of interesting features
22 of the property are more around here, plus we have
23 the house and we've obviously planted quite a bit
24 around house and this is the cottage here. This is
25 kind of like where we live, this part of the

1 property, and where we focus. You could say it's a
2 good idea and we have certainly thought about that,
3 but it would really -- as I say, this is the furthest
4 away. We don't go there that often.

5 MR. COLELLO: Let me just say this,
6 everyone on this Board lives with the same problem
7 and the fact that we've all planted around our home
8 and we all have Bambi and his friends nibbling away
9 at our plants.

10 MR. FROESSEL: I don't. I have two
11 big dogs.

12 MR. COLELLO: Well, I have a little
13 cowardly dog who pees a lot, that works well too.

14 MS. HOLLANDS: Can we borrow that
15 dog?

16 MR. COLELLO: Sure. Well, my first
17 reaction is you can get a pack of wild dogs, it would
18 be cheaper than all of this fencing. I mean, if you
19 really wanted to, a couple of nice dogs with a big
20 bucket of water would keep anything away. And I'm
21 not trying to be facetious and I understand your
22 passion about it and I appreciate what you're doing,
23 but every one of us in this area lives with that
24 problem of deer eating our shrubs. I mean,
25 obviously, maybe not 14 acres of it and not to the

1 expansiveness of what you're trying to do, which I
2 give you a lot credit for, but around our houses we
3 all have that problem. I'm changing two or three
4 shrubs a year.

5 MS. HOLLANDS: Right, but we've just
6 planted 286 of them.

7 MR. COLELLO: But that's your
8 decision, that's not mine.

9 MS. HOLLANDS: I understand, but it's
10 your decision to do two or three. I do understand
11 what you're saying. I think part of your
12 consideration has to be that we are allowed to fence
13 this property, in some fashion, in any event. So, we
14 could argue about whether we should fence it or not
15 fence it, but our intention is to some kind of
16 fencing.

17 MR. COLELLO: Okay.

18 MS. HOLLANDS: So, maybe you want to
19 consider about whether what we're asking for is a
20 better option than what we might end having to do and
21 I think that might be our neighbors' greatest fear
22 that we put a six foot opaque fence around the sides
23 and the back of the property and we really don't want
24 to have to do that, but we are very serious about our
25 efforts to restore the landscape. And I appreciate

1 that everybody here probably loves gardens, but I
2 don't know that anybody else is as serious about it
3 as we are and that's -- you know, my passion happens
4 to be one thing, somebody else has a different
5 passion for whatever.

6 So, with all due respect, I do think
7 that -- you know, we've thought about setting people
8 out all night with guns, it's not allowed. I mean,
9 there are many different things. We have looked at a
10 lot of different options. I would say that a fence
11 is our last resort as well. There's chemical
12 options, but we're not allowed to use chemicals in
13 the wetland areas and that means this whole side of
14 the property we're pretty restricted what we can do
15 there. There are other areas even though they're not
16 designated wetland areas officially, we wouldn't
17 because we know that they are -- it's wet enough in
18 these two areas that it would end up in the water.

19 MR. COLELLO: Okay.

20 MS. HOLLANDS: I think we are
21 environmentally conscious enough to know what we can
22 do and what we should do are different things.

23 MR. COLELLO: Okay.

24 MS. HOLLANDS: Can I go back to my
25 monologue?

1 MR. COLELLO: Go ahead.

2 MS. HOLLANDS: So, in any case, back
3 to the front where we can only do three feet high, we
4 thought the two options were three feet at the front
5 which you'll see much more, 67 feet back which you
6 would see much more and we have the problem with the
7 septic and the pond. So, I guess, we're asking for a
8 variance that would allow us to put a fence between
9 eight and 24 feet from the front that would come in
10 front where the trees are. It would basically follow
11 the branches of the trees and around the sides and
12 back it would be one to six feet from the property
13 line. Again, depending whether there's a tree or a
14 boulder, we'd have to leave room for the tree trunk
15 expansion and so on, anyway.

16 Basically, we think putting a three
17 foot fence at the road front is going to be a lot
18 more damaging to the character of the neighborhood
19 than a fence that sets behind a tree line.

20 I hope you will forgive me if I'm not
21 a lawyer, but I do listen carefully at these meetings
22 and I was hoping you wouldn't mind if I went through
23 the five criteria that you use and borrowed your hats
24 for a minute. Mr. Harper was kind enough to give me
25 the list. And, of course, I may be thinking

1 completely differently from you, but I was at least
2 trying to think through the issues. I think if I saw
3 you at the town board meeting and I said, you know,
4 if I just heard what I said the other night I would
5 say no, and I would never give you this fence
6 variance. So, I really think two things: First of
7 all, you need to see the property to really get an
8 idea what we're trying to do with the property and
9 why we're asking for this. We thought long and hard
10 about it and we're trying to do what makes the most
11 anesthetic sense as well as practical sense.

12 The other thing is I thought I really
13 have to think about it from your point of view, how
14 do you go about thinking about these things and, of
15 course, you have these five criteria.

16 So, the first issue is about whether
17 an undesirable change -- you can grade me afterwards
18 about how I do doing your jobs here. Is there an
19 undesirable change to be produced in the character of
20 the neighborhood or detriment to nearby properties?
21 So, I think that back to my point about the fact that
22 we're asking for a variance in order to create a
23 fence that is not only effective in supporting our
24 conservation efforts with a landscape, but it's a
25 better option in terms of preserving the character of

1 the neighborhood than what is currently permissible
2 under the fence code.

3 So, specifically putting the fence
4 just inside the tree line, keeping it transparent is
5 far more desirable than an opaque fence or one that's
6 placed in the middle of open lawn. And it should be
7 reconsidered that having a landscape repopulated with
8 beautiful natives and ornamentals instead of the
9 unsightly invasives that were growing up all over the
10 property until three years ago, we think that will be
11 a very positive benefit for the neighborhood.

12 And I think if you've been driving
13 by, I don't know what you think, but I think most
14 people have said to us that they think what we're
15 doing with the property is quite astounding. The
16 couple of people from the Conservation Commission
17 came by to see what we were trying to do and they
18 were very surprised -- pleasantly surprised of what
19 we were doing.

20 So, the idea would be that protected
21 vegetation would essentially obscure the fence in any
22 case. So, I think that we're not just looking at
23 whether the fence in itself is having an impact on
24 the neighborhood, but what the fence is allowing us
25 to do.

1 Going back to neighbors. I know I
2 gave you that letter last time. We have contacted
3 all the neighbors except the gas line company and
4 then one newly arrived occupant down the road and all
5 but two of them have voiced approval of our plan,
6 appreciating that we are trying to restore the native
7 vegetative landscape.

8 Since the last time I was here, I did
9 contact Salem View Farms who are across the road and
10 you may argue they're not there so why do they care,
11 but they do have the whole strip of Dingle Ridge Road
12 across there and they sent me an e-mail. The lawyer
13 sent me an e-mail saying that his client had no
14 objection to us putting up this fence, so that's one
15 more person.

16 The two neighbors who are adjacent to
17 us did say that they prefer not having any fence, at
18 all, but they have agreed -- one of them specifically
19 agreed that having a transparent fence would be
20 better than an opaque fence. And then the other
21 neighbor was very concerned about the loss of bucolic
22 views. Again, if we have the opaque fence I think
23 you'll be a lot more disappointed than if we had the
24 transparent fence.

25 I also last time gave you a list of

1 what other fences were in the neighborhood and showed
2 you some pictures. I don't know if you want to look
3 at those again. I can hand them around. Do you want
4 to see them again or not really?

5 MR. COLELLO: Sure.

6 MS. HOLLANDS: The one that would be
7 the closest to what we're doing is this one here. We
8 wouldn't have the fence on top of the stone wall, but
9 there would be cedar posts with this kind of mesh
10 across it. And, again, all these fences are at the
11 road front, at least the ones I could see were at the
12 road front. We're not talking about putting it at
13 the road front. We're trying to put it behind the
14 tree line. So, that fence, as you can see it, is not
15 that visible even at the road front -- putting it
16 behind -- although we do have that strip of -- right
17 over here. All right. So, that was other fences in
18 the neighborhood.

19 And then another point I'd like to
20 make is from a historical point of view, Ives Farm,
21 which encompassed 400 acres in the area, had many
22 barriers to contain the dairy cows. We, ourselves,
23 have removed many stretches of old barbed wire and
24 wire mesh fencing from along the road front and along
25 the stone walls and some remnants are still there,

1 but they're kind of rusted and trampled on so they
2 don't really show from a distance. And we also, when
3 we were cleaning up the property, found many internal
4 fences that were used to partition the animals. So,
5 I don't think, from a historical point of view, it's
6 unusual to --

7 MR. COLELLO: May I say something,
8 but that's when it was a farm?

9 MS. HOLLANDS: Yes.

10 It was actually answering a point
11 that was brought up by Mr. Eisenberg that farmland
12 area -- prior to being residential it was farmland
13 area. So, I'm not saying --

14 MR. COLELLO: I'm not disagreeing
15 with you. It's just not your best argument.

16 MS. HOLLANDS: It's not my best one.
17 I already thought I was coming with a white flag
18 anyway.

19 So, then the next criteria is whether
20 the requested variance is substantial. This isn't my
21 best argument either, by the way.

22 MR. VINK: I would imagine not.

23 MS. HOLLANDS: Okay. I think that
24 around the back and the sides we're basically looking
25 for two feet extra height on the fence. It could be

1 six, we're looking for two. But, I think that if you
2 considered that we would have a six foot opaque fence
3 versus an eight foot transparent fence it doesn't
4 look so substantial. I think the hardest part is the
5 front where we could, again, go three feet and then
6 we'd be asking for a five foot variance on a three
7 foot fence. And then the other way to look at it is
8 that instead of being at a road front we could go 67
9 feet back, so we're asking for a variance from 67
10 feet to the 8/24 along the road front and 1/6 along
11 the side.

12 I think that could be considered
13 substantial, but then it must be weighed against the
14 benefits of the neighborhood of allowing a fence that
15 is far more aesthetically and environmentally
16 friendly than what is already permitted.

17 Okay. The other point to make is
18 that the property was established decades before any
19 of these zoning codes were considered. So, the
20 current zoning codes are just not compatible with the
21 layout of the property.

22 MR. FROESSEL: The deer also predate
23 the zoning code.

24 MS. HOLLANDS: They did indeed.
25 Actually, it's true that they did, but the sort of

1 imbalance that goes on now in terms of the natural
2 predators for the deer did not happen some time ago.
3 There are more coyotes around and other natural
4 predators. So, I think the problem has arisen more
5 recently. I don't know whether that was within the
6 last 10 years or 20 years, but from an ecological
7 point of view, the deer existed but not the explosion
8 of the deer population.

9 MR. COLELLO: There are more deer now
10 than when the Pilgrims came. Now, ask me how I know
11 that, I have no clue, I don't believe any of the
12 Pilgrims counted them, but that's what I read. There
13 are more deer now than when the Pilgrims got here.
14 How they know that is beyond me. I don't know.

15 MS. HOLLANDS: It's very well
16 documented that there's been a deer explosion in the
17 northeast of America. Take even the instance of
18 Lyme's disease, it's now getting into New York City
19 they've found Lyme's disease.

20 MR. COLELLO: That's a bad rap on the
21 deer, though. Check the field mice first. I'm going
22 to protect Bambi and the friends.

23 MS. HOLLANDS: Are you going to
24 protect the trees?

25 MR. COLELLO: The Lyme disease, the

1 deer get a bad rap. Half the animals such as field
2 mice and things like that --

3 MS. HOLLANDS: Right, but I'm not
4 making an argument about Lyme's disease.

5 MR. COLELLO: Okay. I thought you
6 said ticks.

7 MS. HOLLANDS: I was just talking
8 about the deer explosion.

9 MR. COLELLO: Guinea hens would be
10 good on this property, too. They eat the ticks.

11 MR. FROESSEL: And Alpacas.

12 MS. HOLLANDS: Okay. Whether the
13 proposed variance -- number four, whether the
14 proposed variance will have an adverse effect or
15 impact on the environmental conditions in the
16 neighborhood or district; so I'm focusing here on the
17 environmental things because, I guess, that's what I
18 know about.

19 In terms of the animal life, smaller
20 animals, rabbits, foxes, dogs, woodchucks and so on,
21 they can get under the fence and they can very easily
22 get through the iron rails. So, that's one of the
23 reasons why we like the idea of the railing in front
24 because they're wider spacings. Obviously, any kind
25 of birds can fly or hop over.

1 Mr. Eisenberg did raise a possibility
2 of an animal getting entangled in a fenced, he was
3 concerned about that. But, I think most people will
4 agree that usually that happens when the fence is not
5 in good repair or if there are holes in it. So, I
6 don't think -- I think this sort of fence is actually
7 much more stable than a lot of the deer mesh fencing
8 that's used. It's soft and they can walk into it
9 easily and make holes and so on.

10 And that risk should be weighed
11 against the benefits to the landscape and other forms
12 of local wildlife, including insects by the way, of
13 conserving the native trees and shrubs. Thus, by
14 reducing the native trees and shrubs, you're changing
15 the habitat for the existing wildlife. And I don't
16 really want to get into a philosophical discussion
17 about what's more important, whether deer or other
18 animals are more important than plants, but it is an
19 issue to consider, that protecting trees is just as
20 important as protecting animals from an ecological
21 balance point of view. I mean, balance is really
22 what's key. In terms of plant life, I don't think
23 there's any doubt that excluding the deer would be
24 beneficial to restoring and conserving the native
25 vegetation.

1 And I'll note again, I know the
2 Conservation Commission is a separate board from
3 yours and makes separate decisions, but they have
4 approved our plan. And I would, again, point out
5 that our proposed fence would not pose environmental
6 hazards any greater than a fence that is already
7 permitted and, in fact, less than the opaque fence
8 that we would not want to have to put up. Did I
9 cover that one adequately?

10 All right. Whether the alleged
11 difficulty was self-created; we feel that our
12 difficulty arises due to the application of a
13 relatively, recently conceived ordinance to a
14 property whose age and layout are incompatible with
15 the restrictions. And the location of the existing
16 farmhouse, the pond, the stone walls and the tree
17 lines probably all predate the existence of Dingle
18 Ridge Road as a public byway.

19 So, in summary, we feel that granting
20 us a variance would both result in relief from
21 constraints beyond our control and a fence that is
22 more environmentally friendly and aesthetically
23 pleasing than any alternatives including those that
24 we are currently allowed to do. And we believe that
25 the benefits of the fence, from a conservation view

1 point, outweigh the downsides associated with it.

2 And I think that for anybody who's
3 actually looked around the property, they would see
4 that what we are asking for in terms of fence
5 location does make the most practical and aesthetic
6 sense. And if you hadn't had a chance to walk around
7 I would really -- I don't know. I don't know what I
8 can say to request that you do, but --

9 MR. COSTELLO: Ms. Hollands, I did
10 come by to try to walk around, but you got a chain
11 across the driveway most of the time.

12 MS. HOLLANDS: Only in the evenings.

13 MR. COSTELLO: Well, that's normally
14 when I'm off work and can do that.

15 MS. HOLLANDS: But you're welcome to
16 open it. It unlocks or you can pull in and walk over
17 it.

18 MR. COSTELLO: Okay.

19 MS. HOLLANDS: But I thought somebody
20 might call first and then we would just left it open
21 or we would -- I don't know if you'd like to be
22 escorted around the property or rather look
23 yourselves, but --

24 MR. COSTELLO: We tend to just walk
25 around on our own.

1 MS. HOLLANDS: Okay. Well, as I say,
2 pull into the driveway and step over, but it undoes
3 on the left-hand side. The reason there's a chain
4 across there is the previously occupants put it there
5 because a lot of people think it's Ives Farm Road.
6 So, we get a lot of people turning and saying wait,
7 is this a dead end, where's Ives Farm Road and it's
8 the next turn.

9 MR. COSTELLO: Okay.

10 MS. HOLLANDS: I did also -- I'm not
11 going to bore you with it, I addressed all of
12 Mr. Eisenberg's comments. I'm not going to go
13 through them now.

14 MR. COLELLO: Hold on a second.
15 Let's see if there's anyone in the audience that has
16 questions.

17 Is there anyone in the audience that
18 has any questions or thoughts or opinions in regards
19 to this application?

20 MS. ECKARDT: Unless there's a
21 neighbor here who wants to go first.

22 MR. COLELLO: Go ahead, Lynne.

23 MS. ECKARDT: I have a fence fetish.
24 It's a problem. My question is first to the Board,
25 is there something that distinguishes a deer fence

1 from any other fencing? So, in other words, someone
2 could come along and replace this fence with an eight
3 foot fence of some other type, that's my concern?

4 MR. COLELLO: You lost me. You mean
5 if she's given the variance to go eight feet high?

6 MS. ECKARDT: Right, and putting in
7 fencing that's transparent, if another owner comes,
8 because people do weird things --

9 MR. COLELLO: Sure, and wanted to put
10 a chain link eight feet?

11 MS. ECKARDT: Right.

12 MR. COLELLO: I got to tell you, I
13 don't know if we could stop them. We could put a
14 deer fence, but how do you define a deer fence?

15 MS. ECKARDT: Well, a chain link
16 would be a deer fence.

17 MR. COLELLO: Yes.

18 MS. HOLLANDS: I think the use of the
19 term deer fence is a functional term. I think you
20 just consider it fence.

21 MS. ECKARDT: So the problem would be
22 that it could be replaced with stockade.

23 MR. COLELLO: Anything, stockade. It
24 could be replaced with a brick wall.

25 MS. ECKARDT: You know that's always

1 been my fence fetish is that someone comes along and
2 puts up chain link, so that to me is a problem. I
3 also think it's a little bit disingenuous to talk
4 about a three foot fence in front of an opaque fence,
5 it would be prohibitively expensive, which they may
6 well be able to afford, but it's not going to keep
7 deer out so it's kind of --

8 MR. COLELLO: Which one is not going
9 to keep the deer out?

10 MS. ECKARDT: Even a six foot is not
11 going to keep deer out.

12 MS. HOLLANDS: Opaque it will, but
13 not transparent.

14 MS. ECKARDT: You have a lot of
15 property. They'll jump a lot of different things.

16 MR. COLELLO: My problem is you've
17 got so much land, you may build this fence and you
18 may have four deer in there hiding while you're
19 building it, then what do you do when you got them
20 locked in there?

21 MS. HOLLANDS: You know what, my son
22 asked the same question -- two of them, a nine year
23 old and a seven year old -- mom, what are we going to
24 if there's a deer in there and I said I think the
25 fence is going to take a pretty long time to build

1 sure you won't do this, but I have to ask. I have
2 seen a lot of deer fencing where they use flagging
3 tape, ribbon or cloth to -- you know, you have seen
4 tied on to distract the deer or keep them away.

5 MS. HOLLANDS: Actually, we've got it
6 on that little -- the chain along the driveway
7 because people drive into it. But, no, we wouldn't
8 do that.

9 MS. ECKARDT: So, my concern is that
10 it could be replaced further on. And the town might
11 want to look into a deer fencing code. I know -- I
12 think Bedford and some other areas do have a code
13 written in so that later on it can't be changed into
14 something else.

15 MS. HOLLANDS: Would it be possible
16 to write something that said this could never be
17 replaced with --

18 MR. COLELLO: That would be very
19 tough to enforce, wouldn't you think so, because
20 you're getting a height variance, so to speak. You
21 know, you're getting an area variance, but it's in
22 regard to height is what you're asking for.

23 MS. HOLLANDS: But if someone wants
24 to replace it they would have to go to the building
25 department to --

1 MR. COLELLO: No, they wouldn't.
2 They just need a fence permit. They would just need
3 a fence permit. If they have a variance that said
4 they could put a eight foot high fence --

5 MS. HOLLANDS: But does the variance
6 go to the --

7 MR. COLELLO: It stays with the
8 property.

9 MS. ECKARDT: The town board really
10 should look into this and it will probably be more
11 and more common, too.

12 MR. COLELLO: Michael.

13 MR. LIGUORI: You could make the
14 variance, if the applicant consents, you can make it
15 particular to the owner. If the applicant stipulates
16 to it you could -- I just obtained a use variance in
17 the Town of North Salem. We made it particular to
18 the owner. I researched the body of law. It's out
19 there.

20 MR. VINK: A use variance is
21 different, though. Is that particular to use
22 variances?

23 MR. LIGUORI: No. No. It's
24 particular to variances.

25 MR. COLELLO: Do we have any other

1 questions from anyone else in the audience that
2 wanted to say anything?

3 Okay. Do we have any other questions
4 of the applicant?

5 MR. COSTELLO: I'm just not
6 completely clear yet. You're proposing two kinds of
7 eight foot fences, one is transparent and one is not?

8 MS. HOLLANDS: No. They're both
9 transparent.

10 MR. COSTELLO: One is steel?

11 MS. HOLLANDS: Yes, that has -- it's
12 picket -- steel pickets.

13 MR. COSTELLO: Can you show us where
14 the steel fence will be?

15 MS. HOLLANDS: Yes. On this drawing
16 the red is the metal.

17 MR. COLELLO: The steel?

18 MS. HOLLANDS: The iron railing.
19 This is the existing stockade, the green, and then
20 the blue is the other one.

21 MR. COSTELLO: So, what do you have
22 proposed for the green, no change?

23 MS. HOLLANDS: It just stays there.
24 I don't know -- I think when it was put up there, I
25 don't know who put it up. As I say, it's possible

1 even the town required it to be there because this is
2 a seven foot drop right here next to the road. But,
3 this does come close to the road so I guess we would
4 just leave it. I mean, it's --

5 MR. COLELLO: All right. You're
6 asking for two different kinds of fencing then?

7 MS. HOLLANDS: Yes.

8 MR. COLELLO: You're asking for an
9 eight foot -- what did you call it before -- around
10 the whole property and the back?

11 MR. VINK: Transparent deer fence.

12 MS. HOLLANDS: Yes.

13 MR. COLELLO: And an eight foot
14 picket fence on the red in the front of the property?

15 MS. HOLLANDS: They call them tubular
16 pickets.

17 MR. COLELLO: Whatever.

18 MS. HOLLANDS: This is a picture -- I
19 don't really want to show this picture because this
20 isn't what our property looks like.

21 MR. COLELLO: I understand. Really
22 the type of fence you're putting up is irrelevant.
23 It's irrelevant to this Board in the fact that once
24 the variance is given with the property then you
25 could go home tomorrow and put something else up at

1 this point. I'm not saying you would, don't get me
2 wrong. I'm saying you could or the next owner could.

3 MS. HOLLANDS: I think I would be
4 more than delighted to have something written that it
5 could not be replaced with something else or that
6 another owner wouldn't be able to -- we don't have
7 any intention of selling the property. We wouldn't
8 be investing this much if we were.

9 MR. COLELLO: I got to tell you my
10 personal opinion, Ms. Hollands, and this is where I
11 have a problem with this application. We have
12 already in the last 12 months, I'd say, made two
13 homeowners rip down very expensive fences, very
14 expensive wooden stockade fences. I guess you'd say
15 were done in very good taste. They got bad advice.
16 It's all different issues but, you know -- and not
17 that every application doesn't stand on its own
18 merit, but we try to be as consistent. We try to be
19 as consistent as we possibly can and that's
20 personally, I'm just telling you how I feel, that's
21 my concern.

22 MS. HOLLANDS: Were those fences --
23 were they trying to camouflage the fences behind a
24 tree line?

25 MR. COLELLO: No.

1 MS. HOLLANDS: Were they trying to
2 put them on the road front?

3 MR. COLELLO: Yes, and they put it
4 all the way around the back and they're beautiful
5 fences and they spent a ton of money on them. And
6 one of them, and I don't want to mention which one,
7 but one of them looked beautiful, better than the
8 other one. Okay. It looked like it should be there,
9 but --

10 MS. HOLLANDS: Have they put
11 something up to replace it that's worse?

12 MR. COLELLO: I don't think so.

13 MS. HOLLANDS: I'm going to make a
14 little bit of a metaphor here, but it might not work
15 perfectly, but you know how you were talking about
16 the people at the beginning, less signage is better
17 than more signage?

18 MR. COLELLO: Yes.

19 MS. HOLLANDS: We haven't put up a
20 big fence at this point, but if we had an opaque
21 fence up there and you went to look at it and we said
22 we're asking -- if it was there already and we said
23 we would like to replace this with a transparent
24 eight foot fence, I think you might look at it
25 differently in the sense of saying that would be a

1 lot better than what's already there.

2 MR. COLELLO: I'm not denying it.

3 MS. HOLLANDS: And I think the
4 neighbors and Lynne -- you know, I do sympathize with
5 the whole notion. We didn't want to put a fence
6 particularly. We're putting a fence because we are
7 very, very serious about our efforts to restore the
8 landscape here. And we feel that the restored
9 landscape will be a greater benefit than the
10 detriment of the fence and we certainly feel that
11 putting an opaque fence up is really a big detriment
12 and I think the neighbors would think that. I think
13 everybody in this room would agree with that. So, I
14 think that's where the difference might lie between
15 what you've had in the past and the situation here.

16 MR. COSTELLO: I can tell you my
17 recollection is, we did give a variance for an eight
18 foot high deer transparent fence along the side and
19 rear property lines.

20 MS. HOLLANDS: And then what did the
21 client do at the front?

22 MR. COSTELLO: They brought the fence
23 across from the side to the house, used the house as
24 a barrier and that was far enough back that they
25 didn't need a front variance, so all they needed was

1 a side yard height variance.

2 MS. HOLLANDS: We thought about that
3 as well, but then we have the problem with the one
4 side -- I did -- I thought about many options and
5 this side we're really stuck on what we'd do here.
6 There really are only two points where we would not
7 be going through the water on this side of the house.
8 On the other side of house we have to contend with
9 this septic field. I'm trying to think about how it
10 could work.

11 UNIDENTIFIED WOMAN: How deep is the
12 water?

13 MS. HOLLANDS: How deep is the water?
14 It varies near the pond. It could be two feet. It
15 could be eight feet deep.

16 MR. VINK: It could be done.

17 MS. HOLLANDS: What could be done?
18 Across the water?

19 MR. VINK: It could be done around
20 the water on this side of the water. You're talking
21 about the water over here or the stream over here?

22 MS. HOLLANDS: You got this one here.

23 MR. VINK: You could bring it in on
24 the side of the stream and never cross it. I mean,
25 it could be done. It could be done. You could just

1 bring it in on this side of the stream and you never
2 get close enough to the road to need a variance. I
3 mean, eight feet you still need a variance, but you
4 wouldn't be within the front setback without crossing
5 the stream. I'm just saying, it could be done.

6 MR. COLELLO: I'm going to tell you,
7 as a Board member, my biggest hang-up is the front.

8 MS. HOLLANDS: That's ours as well.

9 MR. COLELLO: That's my biggest
10 problem with this is the front.

11 MS. HOLLANDS: Do you have a better
12 suggestion for us?

13 MR. COLELLO: Yes. My better
14 suggestion is spend about one-gazzilionith the money,
15 put an invisible fence underground and get two dogs.
16 They'll never leave the yard and they'll love you and
17 won't have a problem again.

18 MS. HOLLANDS: Put an invisible
19 fence?

20 MR. COLELLO: Yes, the underground
21 fence to keep the dogs in. That's what we have so
22 our dog doesn't take off. Maybe Tim could rent you
23 his dogs for a couple of weeks and you can try it
24 out.

25 MR. FROESSEL: One of my dogs is

1 terminally ill.

2 MR. COLELLO: I'm sorry about that.
3 The other one can, and you'll never have deer. I'm
4 not trying to be facetious, but you're asking me what
5 I would do, that's what I would do.

6 MS. HOLLANDS: Well, we'd have to
7 find someone to take care of the dogs because we're
8 not there all the time. Maybe they'll eat the deer.

9 MR. VINK: They'll scare the deer.

10 MR. COLELLO: They'll scare them
11 away. Again, I just feel -- again, we're spending a
12 lot of time on this, but I'd feel uncomfortable
13 personally -- this is me, not the Board -- with an
14 eight foot high fence along the front of the
15 property.

16 MS. HOLLANDS: What is it that makes
17 you uncomfortable about it?

18 MR. COLELLO: Because when I try to
19 look at the codes, I look at what was the spirit of
20 the code and what were they trying to -- the writers
21 the code were trying to do. They're trying to make
22 it so the front of our properties don't look like
23 prisons. I'm not saying that your property looks
24 like a prison, don't misread this. But, again, we
25 have to be concerned -- maybe not with you, but with

1 the next person that on the property line there's not
2 an eight foot high metal chain link fence.

3 MS. HOLLANDS: Right. As I say, I
4 think if it could be written --

5 MR. COLELLO: I don't know if it's
6 enforceable. That's a real gray area there. Okay.

7 MR. COSTELLO: I can tell you from my
8 point of view living on street, I cross your property
9 -- in front of your property daily and I've often
10 wondered why there's a stockade fence six foot high
11 on top of a stone wall. And I know it's been down in
12 the last ten years because I've seen the pond behind
13 it. So, it's been down and been reinstalled.

14 MS. HOLLANDS: Do you know why it was
15 there in the first place?

16 MR. COSTELLO: I do not. It always
17 appeared to me to be out of character because nowhere
18 else do you see a six foot stockade fence on the
19 front property line.

20 MS. HOLLANDS: Well, when we first
21 saw it we said that's the first thing we're going to
22 take down after the chain link fence we took down.
23 That was the next thing and then we realized that
24 there's this hazard from this drop in the road so we
25 would be libel if somebody fell into our stream from

1 the road. I mean, I think you wanted us to take that
2 down too and that was part of the problem. Do you
3 find that fence offensive?

4 MR. COSTELLO: It just doesn't seem
5 to be in the character of the town.

6 MS. HOLLANDS: Right, but that's
7 right on the road front and we're talking about
8 putting something behind the tree line. Remember,
9 again, even your suggestion it could be done and put
10 it across here then you would see -- if you're coming
11 up the road it would be far easier to see something
12 that's set back -- we can't go there, but if it were
13 in the middle of lawn -- than something that's right
14 behind the trees. I think there are other fences --
15 you know, when I was driving along Dingle Ridge Road,
16 I think there are other fences that are behind the
17 trees that you can't really see them.

18 MR. COLELLO: I'm sure there are, but
19 they might be before we had the codes to say you
20 couldn't put a fence there. But let me throw
21 something out at you. I understand what you're
22 trying to do and I appreciate your passion and all
23 that stuff, and that's great. I know you want to do
24 it right and I don't want to belabor this. We can
25 vote on this tonight. I'm going to throw this out at

1 you. I'm going to suggest that you guys talk this
2 out a little bit more and try to figure out where you
3 can sort of draw a line and try to see if you can put
4 the front part of the fence that's facing Dingle
5 Ridge so that you don't need a variance so that you
6 are 100 feet back and see if you can make that work.
7 If you don't want to, you don't have to.

8 MS. HOLLANDS: It would be great if
9 we could, but I'm trying to think -- I mean, in terms
10 of the water we'd have to come inside.

11 MR. COLELLO: Well, let's not try to
12 do it tonight and I'm not trying to be a wise guy. I
13 really would love you to go home and think about this
14 and really map it out.

15 MS. HOLLANDS: So your concern is
16 that you want it to be not on the road front.

17 MR. COLELLO: I would like it as far
18 back from that road front as possible, way back, like
19 100 feet.

20 MR. COSTELLO: Whatever is required.

21 MR. COLELLO: Whatever is required,
22 that's what I'm saying. Is it 50 or 100 here? How
23 far back to be that height?

24 MS. HOLLANDS: Well, we'd be behind
25 the house. We'd be like halfway through the house,

1 67, through here.

2 MR. COLELLO: See, the vast majority
3 of your property is behind your house, you know what
4 I'm saying, that's the beauty of it, the vast
5 majority of your 14 acres.

6 MS. HOLLANDS: But what's most
7 visible is the front in terms of the vegetation.

8 MR. COSTELLO: You're in a R-160
9 zone?

10 MS. HOLLANDS: Yes. We'd have to go
11 100 feet back or the 67 in from all sides which I
12 don't think would look very good.

13 MR. COLELLO: I should have it here.

14 MS. HOLLANDS: So, Mr. Costello, when
15 you walked around, did you get a sense --

16 MR. COSTELLO: I didn't.

17 MS. HOLLANDS: Because the chain?

18 MR. COSTELLO: Yes. I'll come up.

19 MS. HOLLANDS: If I go and consider
20 it, would I be able to request more people came
21 around and took a look at it?

22 MR. COLELLO: We'll do our best to
23 get there.

24 MR. COSTELLO: As you can tell, the
25 biggest concern is the impact to the street.

1 MR. COLELLO: Personally, I don't
2 need to see the back of your property. I'm sure it's
3 beautiful. I don't need to see it. I'm more
4 concerned with what people see from Dingle Ridge.

5 MS. HOLLANDS: I think if you put it
6 100 feet back -- 67 or 100 feet back, you're going to
7 see it more from Dingle Ridge because it's going to
8 be out in the middle of the lawn.

9 MR. COLELLO: Then you may have to
10 put some more vegetation around it. Another couple
11 of hundred trees, you won't notice it's there, it
12 will be gone.

13 MS. HOLLANDS: It's 100 feet if you
14 want to be at the property line. It's 67 feet if you
15 come -- if you come in like the -- if you came in --
16 Ron even drew it for me. Here you go. Here are our
17 two options. That's three feet and then six feet
18 around or you have this, you know, the Texas and the
19 small Texas version. The 67 feet back which cuts out
20 the whole -- of course, we'd run into our septic
21 field and the buildings and all the rest of it.

22 MR. COSTELLO: What I'm thinking I'm
23 hearing from Ed is that if the concern is not the
24 side property lines, it really wouldn't be set back
25 too far. It wouldn't create a smaller State of Texas

1 as that one shows.

2 MR. COLELLO: By the time it will be
3 done it will look like Oklahoma. Let me see that.
4 This is Dingle Ridge, correct, right here?

5 MR. COSTELLO: Yes.

6 MR. COLELLO: So, I'm more concerned
7 with this red line. I don't care -- and again, this
8 is me. I'm not speaking for the Board. Personally,
9 I don't care if the fence is out here. All right.
10 I'm concerned with this one right here.

11 MS. HOLLANDS: And you don't buy the
12 argument that putting it behind the trees --

13 MR. COLELLO: No.

14 MS. HOLLANDS: -- makes it less
15 visible?

16 MR. COLELLO: No. I buy the
17 argument, yes, that's true. I don't buy the
18 argument, and I know you're not going to like this,
19 that the next person is not going to be as user
20 friendly with everything in nature as you might be.
21 I don't know who's going to own your property in 20
22 years, okay. Maybe 100 years I don't know who's
23 going to own the property.

24 MS. HOLLANDS: My kids, hopefully.

25 MR. COLELLO: Your kids, exactly

1 right.

2 MS. HOLLANDS: The trees will own the
3 property.

4 MR. COLELLO: All right. So, would
5 you mind doing that?

6 MS. HOLLANDS: I won't mind doing
7 that.

8 MR. COLELLO: I think that's the best
9 decision for all of us.

10 MS. HOLLANDS: Okay.

11 MR. COLELLO: Can we take a short 10
12 minute break?

13 (Whereupon, a short recess was taken
14 by all parties.)

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22 MR. COLELLO: Michael and Elisa
23 Anfuso.

24 MR. COSTELLO: Just a reminder that
25 you're still sworn in from last month.

1 MRS. ANFUSO: Yes.

2 MR. BOWLES: Yes.

3 MR. COLELLO: Can you give us a
4 little recap?

5 MRS. ANFUSO: I'm here for a
6 variance, 138 --

7 MR. COLELLO: Dash 11?

8 MRS. ANFUSO: Yeah.

9 MR. COSTELLO: Expansion of a
10 conforming.

11 MRS. ANFUSO: Expansion of a
12 conforming. I need to have an exit from my sliding
13 glass door and I would just like to put a small
14 landing with stairs to an existing walkway.

15 MR. BOWLES: Show the picture.

16 MRS. ANFUSO: You should have it from
17 last time.

18 MR. COLELLO: Personally, I didn't go
19 by your property. Did anybody else see it?

20 MR. FROESSEL: Yes.

21 MRS. ANFUSO: We converted our garage
22 into a family room. We have a sliding glass door.

23 MR. COLELLO: That's long done;
24 right?

25 MRS. ANFUSO: Yes.

1 MR. BOWLES: Yes.

2 MRS. ANFUSO: But we need approval --

3 MR. BOWLES: Can't get out.

4 MRS. ANFUSO: -- because they

5 approved our permit without this part.

6 MR. COLELLO: And you have a door

7 there, obviously?

8 MRS. ANFUSO: I have a sliding glass

9 door here and I have an existing walkway here and I

10 just want to make it so that I can step on to this

11 little landing and walk to the walkway.

12 MR. COLELLO: I don't understand

13 this.

14 MRS. ANFUSO: What?

15 MR. COLELLO: Is there a door on this

16 side?

17 MRS. ANFUSO: No. There's a sliding

18 glass door back here.

19 MR. COLELLO: Right. So, this

20 walkway is on the ground?

21 MRS. ANFUSO: Yes.

22 MR. COLELLO: Oh, it's on the ground.

23 MRS. ANFUSO: Yes.

24 MR. COLELLO: I'm sorry, I got you

25 now. And you want to step up three steps or so? How

1 many steps?

2 MRS. ANFUSO: Yeah, three steps.

3 MR. COLELLO: And then it will be
4 this big?

5 MRS. ANFUSO: Yeah. Four feet by
6 nine feet.

7 MR. COLELLO: And that's nine feet?

8 MRS. ANFUSO: Yes.

9 MR. COLELLO: So, the applicant is
10 not expanding with this small deck any closer to the
11 sides or to the rear setbacks. But, because the
12 house is, once again, preexisting, nonconforming,
13 they're short on the right and left sides by
14 approximately three feet, approximately six feet and
15 overall that's short total by about 20 feet, a little
16 less.

17 Does anyone in the audience have any
18 questions or comments regarding this application? Do
19 we have any questions of the applicant?

20 MR. COSTELLO: No.

21 MR. COLELLO: Any final comments
22 you'd like to make?

23 MRS. ANFUSO: No.

24 MR. COLELLO: Do you think you've had
25 a fair and adequate opportunity to state your case?

1 MRS. ANFUSO: Yes.

2 MR. COLELLO: Very good. Have a
3 seat. Again, a classic 138-11. I'll call this the
4 Harper case. We should call 138-11 the Harper
5 factor.

6 Anyway, I'll entertain any motions
7 either in favor of or opposed to the application.

8 MR. FROESSEL: I'll make a motion to
9 grant the applicant an area variance to construct a
10 nine foot by four foot platform deck as depicted in
11 the application.

12 MR. COLELLO: Do I have a second?

13 MR. CASTELLANO: I will second.

14 MR. COLELLO: Seconded by Joseph.

15 Would you address the criteria, please?

16 MR. FROESSEL: Yes.

17 Whether an undesirable change will be
18 produced in the character of the neighborhood or a
19 detriment to nearby properties will be created by the
20 grant of the variance; no. It's essentially a very
21 small deck that they're putting in to be able to
22 access the back door. There's much, much larger
23 decks than that throughout Brewster Heights so it's
24 really not any type of change in the character of the
25 neighborhood.

1 Whether the benefit sought by the
2 applicant can be achieved by some feasible method
3 other than a variance; no. It's obvious they need
4 some type of structure there to be able to use that
5 door to affix the elevation and really anything they
6 do there is going to require a variance because of
7 the preexisting, nonconforming setbacks of the house.

8 Whether the requested variance is
9 substantial; I would say it's not because it's not
10 going into any of the already encroached setbacks.

11 Whether the proposed variance will
12 have an adverse effect or impact on the environmental
13 conditions in the neighborhood or district; no,
14 there's not.

15 Whether the alleged difficulty was
16 self-created; my view is that it's really not
17 self-created. It's more of a product of the fact
18 that the house was built prior to the current zoning
19 codes.

20 MR. COLELLO: Roll call vote.
21 Joseph.

22 MR. CASTELLANO: In favor.

23 MR. COLELLO: Tim.

24 MR. FROESSEL: In favor.

25 MR. COLELLO: Tom.

1 MR. COSTELLO: In favor.

2 MR. COLELLO: Paul.

3 MR. VINK: In favor.

4 MR. COLELLO: I'm in favor as well.

5 So you're all set.

6 MRS. ANFUSO: Thank you.

7 MR. COLELLO: Good luck.

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15 MR. COLELLO: Frank DiPietro.

16 MR. BUMGARNER: Craig Bumgarner, an

17 attorney with offices in Carmel, 1717 Route 6. With

18 me this is evening is Mr. DiPietro.

19 MR. COLELLO: I don't think he's been

20 sworn in.

21 MR. BUMGARNER: No. He wasn't here

22 last time.

23 MR. COSTELLO: Raise your right hand.

24 Do you swear that the testimony you're about to give

25 is the truth, to the best of your knowledge?

1 MR. DIPIETRO: Yes.

2 MR. COSTELLO: Thank you.

3 MR. BUMGARNER: Just to give the
4 Board a quick recap of the project, the property
5 consists of 7.212 acres. It's located at 40 Guinea
6 Road in the town's R-160 district. This district
7 requires 160,000 square feet of lot area. We are
8 proposing to subdivide a parcel of property that
9 currently has one residence on it into two lots
10 thereby creating one conforming lot with the full
11 160,000 square foot and one nonconforming lot that
12 would have one roughly 154,100 square feet attached
13 to it at that point.

14 We've sent out over 100 notices for
15 our mailing. I think two people came to the last
16 board meeting. They both reside in Holly Stream
17 Condos. They looked at the map. They found out
18 where we were and they were all set.

19 Would you like me to go through the
20 factors of the variance? I did that at the last
21 meeting. Certainly, we can talk about it more if
22 you'd like to.

23 MR. COLELLO: Does everyone
24 understand what's going on? Does anyone need him to
25 go through it again? Tom?

1 MR. COSTELLO: No.

2 MR. COLELLO: Tim.

3 MR. FROESSEL: It's up to him.

4 MR. COLELLO: It's up to you if you
5 want to.

6 MR. BUMGARNER: I mean, I can keep it
7 real brief. The major factor that the Board will be
8 considering is whether there's going to be an adverse
9 change to the character of the neighborhood. Last
10 time we were here we showed the Board a tax map with
11 the surrounding properties most of which are -- hover
12 between an acre and an acre and a half, you know, in
13 total lot area so it is in keeping with the
14 surrounding area.

15 Not to, again, to get into too much
16 detail on this because we did talk about it last
17 time, but in terms of the variance itself, it is
18 pretty small in volume, roughly 3.85 percent of the
19 total volume. I think we're only looking for a
20 variance of -- what do we got here in square feet?
21 It's only 5,860 square feet.

22 My client informs me that the
23 property is completely surrounded by pretty thick
24 evergreen trees and so there shouldn't really be a
25 big problem with any of the neighbors there. Other

1 than that, I think the -- that's it in connection
2 with the rest of the application.

3 MR. COLELLO: Do we have any
4 questions or thoughts from anyone in the audience?

5 Go ahead, Lynne.

6 MS. ECKARDT: What's the frontage?
7 Is the frontage fine as far as this goes for both
8 lots?

9 MR. BUMGARNER: It is.

10 MS. ECKARDT: And this was in front
11 of the planning board, what, probably three years?

12 MR. DIPIETRO: No, about a year ago.

13 MS. ECKARDT: So, did the planning
14 board forward this on?

15 MR. DIPIETRO: Yes, and they
16 recommended it for approval.

17 MS. ECKARDT: Thank you.

18 MR. COLELLO: They really didn't
19 recommend it for approval.

20 MR. DIPIETRO: Okay.

21 MR. COLELLO: You know what I mean?

22 MR. BUMGARNER: We talked about your
23 referrals last time, more with an application prior
24 to me.

25 MR. COLELLO: Exactly, and I'm not

1 giving you a hard time.

2 MR. BUMGARNER: We understand
3 perfectly what that means and entails and so forth
4 so...

5 MS. ECKARDT: Could I ask one more
6 question? I'm sorry, I forgot.

7 Refresh my memory, are there wetlands
8 on this?

9 MR. DIPIETRO: No.

10 MR. BUMGARNER: No. None whatsoever.

11 MR. COLELLO: As I told you last
12 month, my concern is it's always hard for me is
13 where's the line, you know. I mean, you're going to
14 have a four acre lot and a 3.89, whatever it is, acre
15 lot. Is that line 3.4; is it 3.2, you know what I
16 mean? Is it 4.0?

17 MR. BUMGARNER: I mean, I think it's
18 important to remember the -- really the most
19 important factor for the Board to consider is the
20 character of the neighborhood. I mean, if we were
21 looking at maybe four, five, six acre lots
22 surrounding this then I would be a lot more
23 concerned. I mean, yes -- you know, these are all --
24 it's supposed to be balancing test which means the
25 Board should take all of these factors into

1 consideration.

2 In terms of whether it's substantial
3 or not --

4 MR. COLELLO: It's not substantial.
5 It's not. I agree with you. And what makes me feel
6 better, personally, is the fact that you don't -- you
7 have enough road frontage. You need one variance.
8 You're just a little short on your overall size and
9 you could have two 3.9s -- I'm just using a number --
10 or you have one 4.0 and one 3.8.

11 MR. BUMGARNER: We were actually --
12 this piece of property years back was approved for a
13 five lot subdivision.

14 MR. COLELLO: Yeah, I bet.

15 MR. DIPIETRO: Actually, seven lots.

16 MR. VINK: An acre each?

17 MR. DIPIETRO: Less than that, a half
18 acre and then it went to one and a half acre zoning.
19 We got caught unaware. We didn't realize that it was
20 being upzoned because there's no property around us
21 or near us except for the Gidusso property behind us
22 that's this size and we were -- and we thought we're
23 an acre and a half zoning.

24 This property was bought in, I think,
25 1985 or '86 by my grandfather. I purchased it from

1 him as basically an inheritance for what was owed on
2 the property in 2002. And we looked into -- we grew
3 up in Brewster. My brother was a big lacrosse star
4 for the high school team. We've been living there
5 all of our lives. So, it wasn't something like we're
6 planning a major subdivision. It's just a house. We
7 were unaware. We really thought it was an acre and a
8 half.

9 MR. BUMGARNER: Again, I think it's
10 pretty telling that you can send out that number of
11 notices and not really have a lot of objection. I
12 mean, if it was really going to be a serious
13 detriment to the character of the neighborhood, I'm
14 sure those neighbors would certainly come here to be
15 heard.

16 MR. COLELLO: Most of the those were
17 in the condos, though; right?

18 MR. DIPIETRO: Yeah, mostly the
19 condos.

20 MR. BUMGARNER: Yes. The condos were
21 -- made the volume of it, but all of the surrounding
22 neighbors were notified. In fact, even one of the
23 neighbors called my office with a few questions. I
24 told her how to look at the file and get maps and so
25 forth.

1 MR. DIPIETRO: Have you been on the
2 property?

3 MR. COLELLO: No, I did not.

4 MR. DIPIETRO: It's about 20 feet
5 from the property line is evergreens. This is all
6 cleared field. So, we're not taking down any trees
7 except the driveway right here. It's flat space.

8 MR. COLELLO: I usually don't go look
9 at raw land. I usually don't, to be honest with you,
10 only because -- you know, if there's real issues or
11 it's real interesting type of tricky thing maybe, but
12 I've never been good at walking property. My wife
13 says I have no vision. I don't know. I have no
14 compassion. I have no sensitivity. There's a lot of
15 things I don't have.

16 MR. COSTELLO: A sense of humor.

17 MR. COLELLO: Do you have a question,
18 sir? Could you state your name for the record,
19 please?

20 MR. R. DIPIETRO: Rigo, R-i-g-o,
21 DiPietro. The entire property is surrounded by
22 multi-family. On the south we have one acre lots and
23 then the house right after ours is multi-family.
24 Direct across the street is multi-family. To the
25 other side of us, going to Salinger, is a

1 subdivision. The reason why there's some land in
2 between there is because there's a huge gas pipeline
3 going through and that's the reason why you have that
4 vacant land there. All around us is multi-family and
5 one neighbor, too.

6 In the rear of us, you probably know
7 better than me, I think about 500 homes are approved
8 over there and now they're involved in a lawsuit.
9 So, you know, why is this house the only one that has
10 to be four acres in the middle of all the
11 multi-families, it just doesn't make any sense.
12 Thank you.

13 MR. COLELLO: Do you have any other
14 questions of the applicant?

15 Are there any final comments you
16 would like to make before we close the hearing?

17 MR. BUMGARNER: I think that's it.

18 MR. COLELLO: Do you think you've had
19 a fair and adequate opportunity to state your case?

20 MR. BUMGARNER: Yes, we do.

21 MR. DIPIETRO: Yes, sir.

22 MR. COLELLO: Great. Have a seat.

23 MR. COSTELLO: And I tend to agree
24 with you in the fact that they only need the one
25 variance, which is a size, mitigates the impact.

1 They have the frontage and they have all the other
2 requirements that are required for a legal lot. So,
3 the 5,000 square feet of land on the one lot that
4 they're proposing that is short is three percent, so
5 I really think it's minimal.

6 And the other thing is the character
7 of the neighborhood. Certainly, adding one
8 additional house on a four acre lot is not -- almost
9 a four acre lot is not going to be a detriment to
10 that neighborhood.

11 MR. COLELLO: I agree with that. I
12 look at this and I was just thinking about it. I
13 think it's a win/win/win. I think it's -- obviously,
14 if we grant the variance it's a win for the applicant
15 because he gets to do what he wants to do. I think
16 it's a win for the neighbors because I don't think
17 it's going to matter to any of the neighbors.

18 And not that it's our concern, not
19 that's what we do things for, but I think it's a win
20 for the town because, let's put the cards on the
21 table, you get another piece of property on the tax
22 map and the town is going to pick up tax money.
23 That's not why we do things, but I look at it through
24 the town's standpoint, the applicant's standpoint and
25 everyone's standpoint.

1 MR. COSTELLO: It's going to increase
2 the deer, though.

3 MR. COLELLO: Yeah, but so do condos.
4 I got to tell you, I don't think he's going to put a
5 dent in the school system nearly as much as that
6 development that's around the back of him.

7 MR. VINK: Although at \$20,000 a kid
8 to educate them, if there's two kids living there
9 we're losing money on the deal.

10 MR. COLELLO: Good point.

11 MR. R. DIPIETRO: Taxes are \$15,000 a
12 year for one house.

13 MR. VINK: So if there's two kids --

14 MR. COLELLO: Okay. I'll entertain
15 any motions either in favor of or opposed.

16 I'd like to make a motion to grant
17 the variance for the applicant to allow the applicant
18 to subdivide the property so that one of the lots in
19 question remains 160,000 square feet and the second
20 proposed lot will be 154,140 or approximately three
21 percent short. Do I have a second?

22 MR. VINK: Second.

23 MR. COLELLO: Seconded by Paul. I'll
24 address the criteria.

25 Whether an undesirable change will be

1 produced in the character of the neighborhood; I
2 don't think it will, at all.

3 Whether the benefit sought by the
4 applicant can be achieved by some feasible method
5 other than a variance; sure, only one thing to do,
6 put up one house. There's no other way to do this
7 without a variance.

8 Whether the requested variance is
9 substantial; I think that's the key, it's surely not
10 substantial. It's three percent and it's one of the
11 reasons I think it's a good idea.

12 Whether the proposed variance will
13 have an adverse effect or impact on the environmental
14 conditions in the neighborhood; I think it will have
15 none.

16 And whether the alleged difficulty
17 was self-created; yeah, it was self-created because
18 the applicant is requesting to have two lots where
19 there should be technically one. But, I think we
20 also have to be cognizant of people in this town.
21 We've had a few of these over the years who had
22 approved building lots and with upzoning they've been
23 diminished.

24 I can remember a bunch of them over
25 the years where people have thought they had three

1 lots and then all of the sudden it's two and pretty
2 soon it's one, et cetera. I'm not saying upzoning is
3 bad. I think upzoning is pretty good for the town,
4 personally. But, I think we have to be cognizant of
5 the fact that when you have upzoning you have to
6 look at the -- not that the applicants that are
7 trying to work the system, but the homeowners or the
8 land owners who are just trying to build something,
9 and I think that sometimes that plays in it.

10 Okay. Roll call vote. Joseph.

11 MR. CASTELLANO: In favor.

12 MR COLELLO: Tim.

13 MR. FROESSEL: In favor.

14 MR COLELLO: Tom.

15 MR. COSTELLO: In favor.

16 MR COLELLO: Paul.

17 MR. VINK: In favor.

18 MR COLELLO: And I'm in favor as

19 well. So you're all set.

20 MR. DIPIETRO: Thank you.

21 MR. BUMGARNER: Thank you very much.

22 MR. COLELLO: Do you want this map

23 back?

24 MR. DIPIETRO: Yes, please. Thank

25 you very much.

1 MR. COLELLO: Good luck.

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9 MR. COLELLO: Gomez. Hello.

10 MRS. GOMEZ: Hello.

11 MR. COSTELLO: Mailings?

12 MRS. GOMEZ: I think I gave that to
13 you last month.

14 MR. COSTELLO: Which was the one that
15 we only got one mailing?

16 MRS. GOMEZ: I didn't see that lady
17 here.

18 MR. COLELLO: She's not here. She's
19 this lady.

20 MR. COSTELLO: Okay. Just a reminder
21 that you're still under oath.

22 MRS. GOMEZ: Yes. That's the denial
23 letter and we are applying for --

24 MR. COLELLO: This is the woman that
25 supposedly I told her she doesn't have to do the

1 mailings because they already got their approval from
2 the co-op board. Do you remember me saying that last
3 month?

4 MR. FROESSEL: No.

5 MR. COLELLO: I didn't think I did
6 either, but supposedly somebody heard me say that,
7 only her, I'm sorry.

8 MRS. GOMEZ: Yes. I'm applying for a
9 variance so we can install a small above ground pool
10 to the back and attach it to an existing deck. We
11 don't have the required setbacks to my neighbor in
12 the rear. We're short by approximately five feet and
13 that's not counting the existing deck which is not
14 considered part of the dwelling. We're okay as far
15 as the side setbacks, but since the property is on a
16 fork I've got frontage everywhere except for the rear
17 of the property.

18 MR. COLELLO: I drove by your site --
19 your house. I didn't get out of the car. I hit you
20 and Mr. Ratajack, you're both right up from the
21 street from each other.

22 MRS. GOMEZ: Right.

23 MR. COLELLO: And it was clear that
24 most of your property is in the front of your house
25 and you have very little in the back.

1 MRS. GOMEZ: And this was why we
2 offset the pool so that it would not extend beyond
3 the corner of the house so you wouldn't see it until
4 you actually pass our house, and that's why it's
5 offset so that it will probably come to the edge of
6 the house and then midway on the existing deck.

7 MR. COLELLO: Do we have any
8 questions or thoughts or opinions from anyone in the
9 audience?

10 Any Board members have any questions
11 of the applicant?

12 MR. FROESSEL: I have a question.
13 Mr. Harper's letter that says that the existing rear
14 setback is 22.6 feet and that the proposed setback of
15 the pool would be only 15 feet. You're putting up a
16 pool that's only seven feet?

17 MRS. GOMEZ: No. The pool is 12 feet
18 wide by 24 feet long. When I originally submitted
19 the application, I explained to the lady in the town
20 hall that I needed 35 foot setback on the property,
21 but it was worded differently in the copies that you
22 received.

23 MR. COLELLO: Okay. So, I guess, I'm
24 going to ask the question: The net result is where
25 do you want to put your pool? How far is that from

1 the property line?

2 MRS. GOMEZ: 15 feet from the edge of
3 where the pool ends to this wire and wood fence.

4 MR. COLELLO: That's your property
5 line?

6 MRS. GOMEZ: Uh-huh.

7 MR. COLELLO: Your house is how far
8 back?

9 MRS. GOMEZ: From?

10 MR. COLELLO: From the property --
11 can I see this up close?

12 MRS. GOMEZ: Sure.

13 MR. FROESSEL: If this is 22.6, a 12
14 by something foot pool and have 15 foot?

15 MR. COLELLO: If the pool is 12 feet
16 this way, so if this looks like -- I'm just
17 guessing -- going through the middle pool it would
18 be six feet, so six minus the 22 would put you down
19 -- yeah, that will work because if you look it's
20 getting --

21 MRS. GOMEZ: It comes at an angle and
22 that was another reason why we offset it because as
23 you start getting further down it starts to narrow up
24 in the back.

25 MR. COLELLO: So, if you look here,

1 this is 22, this might be 25 from the property line.

2 MR. FROESSEL: Yes.

3 MR. COLELLO: And then you got six
4 feet, it really would be 21 then.

5 MR. COSTELLO: No, it's not six feet.
6 The pool is 12 feet wide.

7 MR. COLELLO: This line -- I'm
8 guessing, this line goes to the middle of the pool.

9 MR. COSTELLO: What line is that?

10 MR. COLELLO: This arrow.

11 MRS. GOMEZ: Right.

12 MR. COLELLO: No, you're right. I'm
13 sorry. That line is not this arrow. That line is
14 the property. So you're right, Tom, I apologize.
15 So, that's where you are. So, it's 12 feet plus
16 this, that's 27 feet; right?

17 MR. COSTELLO: 27, subtract the 12
18 foot width of the pool and it's 15.

19 MR. COLELLO: And there's your 15.
20 So, the measurements would be hypothetically 22 from
21 this corner, 27 from the middle of the pool and 43
22 over here. That doesn't make sense. Then 43 is back
23 from here.

24 MR. COSTELLO: From the deck.

25 MR. COLELLO: Okay.

1 MR. COSTELLO: Just to clarify,
2 you're fairly certain that after you build the pool
3 the closest point to the fence is 15 feet?

4 MRS. GOMEZ: Yes.

5 MR. COSTELLO: Because if we grant
6 you a variance for that, if you come within 14 feet
7 you're going to have a problem.

8 MR. COLELLO: We're not trying to
9 scare you. These measurements are good?

10 MRS. GOMEZ: Well, my husband
11 measured it. I don't know.

12 MR. COLELLO: I'm not going to pass
13 any judgment on that.

14 MRS. GOMEZ: Would it be possible for
15 me to request something, maybe an extra foot?

16 MR. COLELLO: Okay. I guess my
17 question is how bad is your husband at measuring?

18 MRS. GOMEZ: Well, he has problems
19 with 45 miter cuts so I guess it's not so good.

20 MR. COSTELLO: When are you planning
21 to install the pool?

22 MR. VINK: A month ago?

23 MRS. GOMEZ: Yeah, basically when I
24 came to the last meeting.

25 MR. COLELLO: So, what you're asking

1 for is a 20 feet variance?

2 MR. FROESSEL: And I'll tell you, I
3 brought it up because I drove by. It just looks
4 tight back there.

5 MR. COLELLO: So, do you want to
6 change your application to 21 feet?

7 MR. COSTELLO: She's saying 15 right
8 now; right?

9 MR. COLELLO: She's not 15.

10 MR. VINK: She needs a 20 foot
11 variance.

12 MR. COLELLO: Why don't you apply for
13 a 21 foot variance?

14 MRS. GOMEZ: Okay.

15 MR. COLELLO: If it's more than a
16 foot, I'm sorry, then you got a problem. It's not
17 that he can't measure, don't get me wrong. The
18 problem is, are you sure where the property line is?
19 That's the issue.

20 MRS. GOMEZ: That I'm sure of.

21 MR. COLELLO: You're sure?

22 MRS. GOMEZ: That I'm sure of.

23 MR. COLELLO: Then I wouldn't worry
24 about that then.

25 MRS. GOMEZ: Can I just play it safe,

1 though?

2 MR. COLELLO: Do you want to go for
3 21 feet?

4 MRS. GOMEZ: Yes. I'd rather go for
5 the 21.

6 MR. COLELLO: It's late. I'm almost
7 willing to say yes to anything at this point,
8 personally. So you want a 21 foot rear setback
9 variance?

10 MRS. GOMEZ: Right.

11 MR. COLELLO: Any questions from
12 anyone in the audience? Any questions from the Board
13 members on what we need?

14 Do you think you've had a fair and
15 adequate opportunity to state your case?

16 MRS. GOMEZ: Yes.

17 MR. COLELLO: Have a seat.

18 The applicant is requesting a 21 foot
19 rear setback variance to put in an above ground pool.
20 Would anyone like to make a motion in favor of or
21 oppose the application?

22 I'll do it. I'll make a motion to
23 grant the applicant a 21 foot variance against the
24 rear setback requirement of 35 feet to install an
25 above ground pool as depicted in the application. Do

1 I have a second?

2 MR. CASTELLANO: I'll second.

3 MR. COLELLO: Seconded by Joseph.

4 Whether an undesirable change will be
5 produced in the character of the neighborhood; no, I
6 don't think it will be any, plus it's not that easy
7 to see back there because most of the land is in the
8 front of the house and it will be hidden behind the
9 back.

10 Whether the benefit sought by the
11 applicant can be achieved by some other feasible
12 method other than a variance; you can't put a pool in
13 the front of your house and even if the applicant put
14 it to the side she'd still have a problem with the 35
15 feet.

16 Whether the requested variance is
17 substantial; it is substantial, a 21 foot variance
18 versus 35 foot requirement is substantial but, again,
19 due to the nature in the corner of the lot there's
20 not much the applicant can do.

21 Whether the proposed variance will
22 have an adverse effect or impact on the environmental
23 conditions in the neighborhood; I think it will have
24 none.

25 And whether the alleged difficulty

1 was self-created; once again, you can say it was
2 self-created because the applicant wants to put in a
3 pool, but due to the nature of that corner piece the
4 applicant doesn't have a lot of options.

5 With that said, roll call vote.

6 Paul.

7 MR. VINK: In favor.

8 MR. COLELLO: Tom.

9 MR. COSTELLO: In favor.

10 MR. COLELLO: Tim.

11 MR. FROESSEL: In favor.

12 MR. COLELLO: Joseph.

13 MR. CASTELLANO: In favor.

14 MR. COLELLO: And I'm in favor as

15 well. So, Mrs. Gomez, you're all set.

16 MRS. GOMEZ: Thank you.

17 MR. COLELLO: Good luck.

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25 MR. COLELLO: Next, Mr. Massimo.

1 This is our first new one of the night.

2 MR. MASSIMO: This is my first time.

3 MR. COSTELLO: Do you have the
4 mailings?

5 MR. MASSIMO: Yes, but yes with a
6 story.

7 MR. COLELLO: I got the story. I'll
8 read you what -- they left me a note; was to be the
9 first new application on the August agenda, was given
10 the wrong date from the town clerk's office,
11 therefore, the mailings are incorrect. He
12 understands he has to do the mailings again for the
13 next meeting, but can you discuss his application as
14 a work session item? He will be at the meeting.

15 Now, I'm surrounded by the guys who
16 are going to make the decision. Personally, because
17 -- and I know it doesn't really matter, but we, the
18 town, blew it, right, giving him the wrong date. So,
19 it's really not his fault that he put wrong date on
20 them. Technically, we can't open the public hearing,
21 correct, or could we?

22 MR. FROESSEL: No, we can't.

23 MR. COLELLO: We can't open the
24 meeting. So, we have to handle this as a work
25 session even though it's 11:20 at night. Okay.

1 MR. FROESSEL: What's incorrect about
2 his mailings? They just weren't done --

3 MR. COLELLO: Wrong date.

4 MR. MASSIMO: They were done fine,
5 but I was told the meeting was going to be next
6 Monday, so on 42 letters that went out the next
7 Monday is the date meeting.

8 MR. COLELLO: So, next Monday we're
9 going to be swamped with people.

10 So, let's talk about it. Let me
11 explain how we do things at a work session. They're
12 very informal. You just tell us what you want to do
13 so we familiarize ourselves with it.

14 MR. COSTELLO: Do you want this off
15 the record?

16 MR. COLELLO: It should be off the
17 record. A work session should be off the record.

18 (Whereupon, an off the record
19 discussion took place.)

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1 MR. COLELLO: Last but not least,
2 Valero Gas Station. Okay. You're still under oath.

3 MR. COSTELLO: This is a new
4 application?

5 MR. LIGUORI: Yes.

6 MR. COLELLO: That's right.

7 MR. LIGUORI: Tom, the list of
8 property owners, they're across and they go in order.

9 The original area that we requested
10 was 48 square feet which was denied because it was
11 too substantial and I think we really cut to the
12 chase. We cut it in half to go down to 24 square
13 feet. Obviously, the addition of a freestanding sign
14 in addition to the extra wall sign bears -- has an
15 affect on the variance.

16 But, I really think this application
17 is what we're going to see in the next seven years.
18 So, we're just six years ahead, I think, of everybody
19 else because when the town begins the enforcement
20 process, after the seven years are up, for all the
21 businesses in -- virtually every sign -- I don't want
22 to say every sign in town, but almost every sign in
23 town is now rendered nonconforming.

24 So, I think what will happen is that
25 we'll see some mass settlement unless everyone takes

1 their signs down, but -- you know, we really are just
2 six years ahead of everybody else. We just don't
3 have our freestanding -- we just don't have a price
4 on it, that's all.

5 And the substantial argument really
6 is that -- what I think this really falls on is the
7 most critical part of the application and we've
8 discussed all the business concerns with having a
9 price sign and to us to have a gas station to not
10 have a price sign is a detriment to the business.
11 Obviously, that's not one of the listed criteria when
12 you apply for an area variance, but to the day-to-day
13 operation -- you know, the conflict between the
14 business owner and the zoning ordinance, this is the
15 most critical thing.

16 MR. COLELLO: Let me ask you a couple
17 questions.

18 MR. COSTELLO: The mailings are in
19 order.

20 MR. COLELLO: Thank you.

21 Once again, to recap we know where
22 the sign is going. We know the height of the sign
23 which is going to be eight feet which is great. Your
24 first go around you wanted a 48 square foot sign?

25 MR. LIGUORI: Yes. We had started it

1 at 18. We had lowered that to 12 feet. I submitted
2 the application really before I had a chance to read
3 all of the various applications before the Board and
4 it was very clear we would not be getting 18 feet.

5 MR. COLELLO: So, now we're at eight
6 feet in height and the square footage in the proposed
7 new sign is what?

8 MR. LIGUORI: We asked for up to 24
9 square feet and that would be six by four. So, it
10 would begin two feet from the ground, go up six and
11 be across by four feet. I'm six feet tall. So, two
12 feet -- I guess you have eight foot ceilings, so four
13 feet across. So it would be this big.

14 In relation to the site, I don't
15 recall the specific dimensions of the site, but if
16 you look around at the various properties and you
17 compare the signs -- for instance, the Subaru. I
18 don't know if you guys take notice of the Subaru
19 signs, but I raise that because they have tremendous,
20 tremendous signage. So, when compared to some of the
21 other properties it's -- six by four is really not
22 big.

23 In relation to the 10 square feet
24 that's permitted, we don't think that 10 square feet
25 is adequate, but that's what the town board deemed

1 appropriate for the district. So, we have,
2 obviously, a head-on conflict when it comes to what's
3 permitted and what we've requested. We've come down
4 very significantly by reducing it to that size.

5 MR. VINK: What do you picture on the
6 sign? Is it going to be another Valero
7 identification or just prices?

8 MR. HESSARI: It's going to be the
9 wording of Valero and the 24 square feet you can
10 pretty much -- actually, then there will be three
11 grades or four grades of fuel. So, if you figure out
12 a foot of Valero, a foot of no lead, plus, super,
13 diesel that will cover the whole sign.

14 MR. COSTELLO: If they're only a foot
15 each then you only need four feet and you're talking
16 about eight feet.

17 MR. LIGUORI: Well, we have to make
18 room for the frame of the sign. The words would be
19 12 inches, Tom, but you may have some additional
20 space. We're going to have to custom make a sign
21 so...

22 MR. COSTELLO: You had some photos of
23 signs.

24 MR. LIGUORI: We did -- we do. We
25 had the book from Valero corporate which is the brand

1 distributor and they went all the way down to 32
2 square feet or --

3 MR. HESSARI: Right.

4 MR. LIGUORI: I think 32 was the
5 smallest that you can get down to with their signs
6 and I didn't see anything other than the 32 square
7 feet.

8 MR. HESSARI: It has to be custom
9 made.

10 MR. LIGUORI: But this one we have to
11 make, but we still need to leave some room for the
12 top of the sign and the actual frame of it.

13 MR. HESSARI: I think the
14 misunderstanding is the height of the sign is eight
15 feet, the maximum height, overall height, but six by
16 four so it would be six foot.

17 MR. LIGUORI: What Tom is saying is
18 that each doesn't add up to six straight even.

19 MR. COSTELLO: Right.

20 MR. COLELLO: Do you need the
21 corporate name on the sign? I mean, you got the
22 company name on the canopy.

23 MR. HESSARI: Right.

24 MR. COLELLO: Okay.

25 MR. VINK: The corporate colors on

1 the facade we approved.

2 MR. COLELLO: I'm just one person
3 buying gas, okay, what makes me go into your gas
4 station? Well, obviously, if I'm on E then I don't
5 have a lot of options, but if I've got an eighth of a
6 tank and I can get to my next gas station, what's
7 going to draw me in? The price.

8 MR. HESSARI: Right.

9 MR. COLELLO: Whether it says Shell
10 or Eddie's Chubby Fuel Guy, it doesn't matter. I'm
11 going in there if the price is right, personally.
12 I'm not saying I'm different.

13 MR. HESSARI: Of course. It's true.

14 MR. COLELLO: And your prices are
15 very competitive, by the way. I just wanted to let
16 you know that.

17 MR. HESSARI: Thank you.

18 MR. COLELLO: So, that wasn't a plug
19 for anyone. It was just a fact. What I'm saying,
20 just as one Board member, the least amount of signage
21 that you need to make it work works for all of us,
22 all right. If you had a four foot wide sign and all
23 you did was put the three numbers there -- I'm sorry,
24 the four numbers, okay, for the four prices at a foot
25 high each, that's four feet, okay.

1 MR. LIGUORI: Yes.

2 MR. COLELLO: And then maybe if you
3 didn't put the name, you could get a foot border.
4 I'm just saying, you might be able to trim it from
5 six feet in height to five feet in height and still
6 have a foot for all of the four prices.

7 MR. HESSARI: It's true, Ed, it could
8 be done, but it's really not in the perfect science
9 that a foot ends and another foot starts here.
10 There's a gap in between.

11 MR. COLELLO: I know that.

12 MR. LIGUORI: We didn't ask for any
13 additional height, but to have the eight feet -- to
14 have the six by four and have it at the eight feet
15 with the fence that's next door that's really part of
16 the driving force for trying to hold on to some of
17 the height is that we do have the six foot fence.
18 It's state property. We can get the state to come
19 and mow it and trim it down, but we have this
20 blockage.

21 MR. COLELLO: It's still going to be
22 at eight feet.

23 MR. HESSARI: Yes. It's not going to
24 be visible. The fence is going to cover it.

25 MR. COLELLO: The fence is going to

1 hurt you some.

2 MR. FROESSEL: I hear they have this
3 transparent deer fence so you can see right through
4 it.

5 MR. COLELLO: I'm just trying to see,
6 is there any way you can take it from being six feet
7 of sign to maybe five feet of sign?

8 MR. HESSARI: It's doable.
9 Everything is doable. This is a custom sign. They
10 don't have it in the book.

11 MR. FROESSEL: Bear in mind for us,
12 one of the things we have to look at is how
13 substantial is the variance. And 24 square feet to
14 you may not seem like it's that huge, but when 10
15 feet is permitted, you're at 140 percent of what's
16 permitted and we can't, with a straight face, say
17 that that's not substantial.

18 MR. HESSARI: True.

19 MR. COLELLO: Just going to the four
20 by five, now you're at 100 percent, you're at 20
21 square feet. It's not perfect, but it's better.

22 MR. HESSARI: Sure. To answer your
23 question about the Valero, they really like to see
24 some word, just Valero, not big a V logo, but
25 something on the top so that's why.

1 MR. COLELLO: Could it work, the five
2 feet?

3 MR. HESSARI: Sure.

4 MR. VINK: Could it work at three and
5 a half by five?

6 MR. HESSARI: You know, this -- the
7 fact that they pass this law, my opinion, all the
8 places that you go in this town they have more than
9 10 square feet so this is going to be a disaster in
10 six years or is the law going to be changed or --

11 MR. VINK: The Mobil station has a
12 small sign. It can't be more than 10 square feet on
13 their post there. Granted it's higher than yours
14 would be, but it's probably a two by five sign.

15 MR. LIGUORI: You can have a price
16 sign made that's three feet by three feet. You could
17 do it. We could have anything made. It's just
18 designing a plan that we think it's going to look
19 nice for the property, and that's really what it
20 comes down to. I have pictures of every gas station
21 in town. I don't want to drop the dime on Mobil, but
22 they have about 100 signs.

23 MR. VINK: There are a lot of gas
24 stations in violation of the signage law.

25 MR. LIGUORI: Almost everyone is and

1 this is why I say we're kind of like six years in the
2 future because here we are -- we're horse trading in
3 saying look, we're going to take down everything. We
4 know we have to take it down and I think that's what
5 you're going to see is that Mobil is going to come in
6 and say look, we know we have to take all of this
7 stuff down, but here's what we really want to keep.

8 MR. VINK: And maybe we'll be telling
9 them to come back with three and a half by five
10 because that's the precedent we set.

11 MR. COLELLO: Or maybe we tell them
12 to go talk to you because you're the role model.

13 MR. LIGUORI: We're hoping to have
14 the best looking thing that's out there, that's the
15 goal is to have the nicest -- I mean, when it comes
16 down to -- I don't know if anyone drives by gas
17 stations and says oh, that's a nice place, I'm going
18 to go in there and buy gas. They look at the price
19 unless they know somebody.

20 MR. HESSARI: Image is important,
21 too.

22 MR. COLELLO: I agree. We want it to
23 look nice.

24 MR. HESSARI: Hess does a lot of
25 business. It's nice and neat.

1 MR. LIGUORI: It just seems that
2 three and a half, four foot -- I get it, you get it
3 down another five feet.

4 MR. COLELLO: And we're not trying to
5 grind you. We're just trying to do the best that we
6 can because that's our job to try to grant the
7 smallest relief possible. It sounds like we're being
8 -- kind of horse trading when Paul says can you live
9 with three and a half feet, but he's right, can you
10 live with three and a half? And then we'll trim some
11 more off, so three and a half times five?

12 MR. VINK: 17 and a half.

13 MR. LIGUORI: If we could walk out of
14 here with 20, I think this is a fantastic result for
15 us and I think we can live with that.

16 MR. COSTELLO: We need a referral to
17 the county, I believe.

18 MR. COLELLO: We do.

19 MR. LIGUORI: Why?

20 MR. COLELLO: It's on a county road.

21 MR. LIGUORI: But we're not doing
22 anything in the county road.

23 MR. COLELLO: Anytime there's a
24 variance within 500 feet of a county road we have to
25 refer it to the county.

1 MS. ECKARDT: Isn't that a state
2 road?

3 MR. COSTELLO: State or county.

4 MR. COLELLO: Yes. You know how that
5 works; right? Unfortunately, we send them a letter
6 and they have 30 days to respond and which the vast
7 majority of the time they say we don't have a
8 problem.

9 MR. LIGUORI: I get it. It's just my
10 blood is boiling because that's why I submit nine
11 applications and I check within 100 feet of a county
12 road. I mean, that should have been the first thing
13 -- the whole project is within 100 feet of a county
14 road. Every variance -- everything we've asked for
15 when we submit it to the clerk, that's why we submit
16 nine applications.

17 MR. COLELLO: We don't have a
18 secretary and this is probably my fault again.

19 MR. LIGUORI: Could we recheck that?
20 I have to look at 239M, or is it N?

21 MR. COLELLO: As far as what, the
22 county?

23 MR. LIGUORI: The referral for the
24 variance.

25 MR. FROESSEL: Some subsection of the

1 General Municipal Law 239.

2 MR. LIGUORI: M or N, one or the
3 other, I forget. I submitted back on February 23rd
4 so there had to be a possibility --

5 MR. COSTELLO: But this is a new
6 application, that's the problem.

7 MR. LIGUORI: Right.

8 MR. COLELLO: This is technically
9 your first time here in front of us on this
10 application.

11 MR. LIGUORI: Right.

12 MR. HESSARI: So the procedure is --

13 MR. COLELLO: That means we can't
14 vote on it tonight. We'll put you ahead to next
15 month.

16 MS. ECKARDT: Since I waited until
17 11:30 tonight can I say my two cents?

18 MR. VINK: Is next month even 30
19 days? That's assuming you get the letter out
20 immediately, I'm saying.

21 MR. COLELLO: I'm not trying to give
22 you a hard time. Can you call in tomorrow?

23 MR. LIGUORI: Who?

24 MR. COLELLO: Call the town.

25 MR. LIGUORI: Yes.

1 MR. COLELLO: Because they're not
2 going to send this out unless you give them the
3 address and everything and all the particulars.
4 Remember the last time you did this --

5 MR. VINK: It still won't be 30 days.

6 MR. COLELLO: But they might respond
7 to us pretty quick.

8 MR. LIGUORI: Well, who's got to sign
9 the letter to the referral? Because, what I can do
10 is, I can draft that for Ruth Mazzei to sign and say
11 please respond within two weeks and follow it up with
12 a phone call.

13 MR. COLELLO: Call Mary.

14 MR. LIGUORI: Mary Rhuda?

15 MR. COLELLO: Yeah. Call her and say
16 look, Ed says this has to go out.

17 MR. COSTELLO: The county referral
18 letter goes to Lynch.

19 MR. LIGUORI: Paul Lynch?

20 MR. COSTELLO: That's who it used to
21 go to if he's still there. John Lynch. And
22 normally, if there was a situation where you want to
23 definitely vote next month on it you'd follow-up with
24 them and make sure he gives you a copy of what he
25 sends to us so you know that he's responded in time.

1 MR. LIGUORI: Okay. We had a
2 referral from the applicant. I must have been
3 confused because one time he said you need to do your
4 referrals so I opened up the code to the referral
5 section and I get a nasty letter back saying we don't
6 take referrals from the applicant. So, I'll talk to
7 Mary Rhuda.

8 MR. COLELLO: She'll do it for you.

9 MR. LIGUORI: If it comes from me
10 then it's not going to --

11 MR. COSTELLO: No. No. It comes
12 from the town and then she's got to attach a copy of
13 the application and then they'll review it and
14 they'll make a form letter back.

15 MR. LIGUORI: Okay.

16 MR. COSTELLO: Usually it's approved
17 as submitted.

18 MR. LIGUORI: Okay.

19 MR. COLELLO: And think about it in
20 the next 30 days, the smallest possible sign that you
21 possibly could live with. But, before we do that,
22 Lynne, you wanted to say a few words?

23 MS. ECKARDT: Yes, very briefly.
24 I'll turn in the letter because I knew something bad
25 was coming. But, I think you're really only ahead of

1 everyone if you only comply. I think it's kind of
2 disingenuous, unless you comply with the 10 square
3 feet, that's the way you're ahead of the curve.

4 MR. COLELLO: Can I say something to
5 interrupt you, and I'm not trying to debate with you?
6 I don't think that's really true because --

7 MS. ECKARDT: Because they're cutting
8 down?

9 MR. COLELLO: Because of the eight
10 feet. Nobody is at eight feet.

11 MS. ECKARDT: Right. So we're half.

12 MR. COLELLO: Yeah, I agree with you,
13 but nobody is at eight feet. Your sign is not even
14 eight feet. Is your sign eight feet at the top?

15 MS. ECKARDT: It's much shorter.

16 MR. COLELLO: See, you're ahead of
17 the curve.

18 MS. ECKARDT: I'm just concerned that
19 whatever is granted here is going to -- I think it's
20 going to be what everyone else is going to go after
21 because it will be greater than the 10 square feet,
22 that's all. So, obviously, the smaller the sign the
23 better off we are in six years. It does set a
24 precedent.

25 MR. LIGUORI: Can I just say one

1 thing? I'm not going to argue the precedent.
2 Everybody knows that if you get something someone is
3 going to come and ask for the same thing we did,
4 there's no denying it.

5 MR. COLELLO: Well, here the facts
6 are different than other places. I'll tell you how
7 they're different. He has that fence to deal with.
8 He has that blockage over there from the state --
9 whatever you call that piece of land there.

10 MR. LIGUORI: The right-of-way.

11 MR. COLELLO: Yes, the right-of-way,
12 that's a problem. That's a problem from people
13 coming from the village to see his sign there.

14 MS. ECKARDT: So, in other words, it
15 could be argued six years down the road that that's
16 the only reason that this was granted a variance
17 successfully?

18 MR. COLELLO: That they got more than
19 10 feet?

20 MS. ECKARDT: Yeah.

21 MR. COLELLO: Maybe, because they
22 lost half the sign.

23 MR. VINK: And they brought their
24 sign down to eight feet.

25 MS. ECKARDT: Which is where it

1 should be.

2 MR. COLELLO: If you take Mobil right
3 up the block, Mobil, they don't have any problems
4 with vision, nothing is blocking it; right?

5 MS. ECKARDT: Here come the pictures.

6 MR. LIGUORI: They have some high
7 signs. But anyway, I think that one of the most
8 important things here is to recognize the spirit and
9 the intent of the sign ordinance. And I think the
10 town board -- I think they know secretly, and they
11 never say it for political reasons, but they know
12 that there is a possibility that no one will comply
13 with the sign ordinance. But, they know that they've
14 accomplished so much by getting gas stations like
15 ours to get all the stuff off the windows and to come
16 in with just a neat plan. They've accomplished their
17 goal.

18 MR. COLELLO: I don't think they
19 have. I don't think they look at it that way,
20 Michael. I think they're really stuck on this, and I
21 don't blame them. I think they're committed to this
22 eight feet.

23 MR. LIGUORI: But the 10 square feet?

24 MR. COLELLO: I don't think the 10
25 is -- I'm guessing, this is a guess. The big thing

1 is they don't want these huge signs. I get gas,
2 because he's my friend, and coffee at this place
3 every morning. Okay. Now, I'm looking at every
4 sign. I went there the other day and I started
5 actually laughing.

6 MR. VINK: Bill's signs are huge.

7 MR. COLELLO: Huge. I go Billy, you
8 got everything up there from logs to firewood to gas,
9 numbers that are bigger than me, you know what I
10 mean? I said you're a nightmare. And I think that's
11 the big thing, but you're right, I think it's the
12 height that they're focusing on, personally.

13 MS. ECKARDT: It would probably be a
14 lot better just to concentrate on the price than
15 fitting in another Valero sign. I mean, to me that
16 would make the most sense because people do buy price
17 and I think the Valero sign is really visible on the
18 canopy. I notice it every time I drive by.

19 MR. COLELLO: Well, the price is the
20 big thing.

21 For some reason, I don't want to be
22 in this job when this all ends, but I want to be here
23 when Home Depot comes by because that could be fun.
24 Well, you can only go eight feet high.

25 MR. VINK: And that's just the H.

1 MR. FROESSEL: It's kind of ironic
2 because most of their merchandise is 20 feet off the
3 ground.

4 MR. LIGUORI: I think what you'll
5 see, no kidding aside, is a giant HD. They'll just
6 cut it down to two letters. I think that will be the
7 trend.

8 MR. VINK: And they will still need a
9 variance.

10 MR. LIGUORI: Yeah, they'll still
11 need a variance. Well, it's obvious what to do so
12 we'll get that done and that will be it.

13 MR. COLELLO: All right. We'll see
14 you next month.

15 MR. LIGUORI: Thank you guys.

16 MS. ECKARDT: Can I just hand this
17 up?

18 MR. COLELLO: Yes.

19 MR. COSTELLO: Is this your letter?

20 MS. ECKARDT: Yes, so you have it.

21 MR. COSTELLO: Do you want to put it
22 in the record, Lynne?

23 MS. ECKARDT: Yes.

24 MR. COLELLO: Off the record.

25 (Whereupon, an off the record

1 discussion took place.)

2 MR. COSTELLO: I'll make a motion to
3 close the meeting.

4 MR. COLELLO: Go ahead.

5 MR. COSTELLO: Seconded?

6 MR. COLELLO: Seconded. All in
7 favor?

8 (All in favor.)

9

10

11

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

13

14

15 THIS IS TO CERTIFY THE
16 FOREGOING TO BE A TRUE AND ACCURATE
17 TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC
18 RECORD AS TAKEN IN THIS MATTER.

19

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22 JAYNE MCGINLEY
23 Court Reporter

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