

TOWN OF NEW WINDSOR

ZONING BOARD

May 14, 2012

MEMBERS PRESENT: HENRY SCHEIBLE, ACTING CHAIRMAN
FRANCIS BEDETTI
RICHARD HAMEL
PATRICK TORPEY

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
ZONING BOARD ATTORNEY

NICOLE PELESHUCK
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE

MEETING AGENDA:

1. Tarsio
2. Chatfield
3. Harsch
4. Sign Here Sign Co for Healey Kia
5. Amish Patel for Dunkin Donuts
6. John Evans Estate

REGULAR MEETING:

MR. SCHEIBLE: I see 7:30 now, all right, I'd like to call the meeting to order of the Zoning Board of Appeals of the Town of New Windsor.

APPROVAL OF MINUTES DATED 4/9 AND 4/23/12

MR. SCHEIBLE: I'd like to make a motion to accept the minutes of April 9 and April 23, 2012 as written.

MR. BEDETTI: I'll make a motion that we accept the minutes for April 9 and April 23 meetings as written and submitted via e-mail to members.

MR. HAMEL: Second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

PRELIMINARY MEETINGS:

ANTHONY & PATRICIA TARSIO (12-14)

MR. SCHEIBLE: First preliminary meeting is Anthony and Patricia Tarsio for a proposed rear deck off of the master bedroom needs a variance of 28.6 feet. The proposed deck is 21.4 feet from the rear property line located at 5 Foley Avenue in an R-4 zone.

MR. TARSIO: How are you?

MR. SCHEIBLE: Good, how are you?

MR. TARSIO: Anthony Tarsio, 5 Foley Avenue, currently at 608 Union Avenue until the house is completed.

MR. CHANIN: Please try to speak loudly enough not only for our lovely stenographer to hear you but also for the people in the audience even though you're facing us.

MR. TARSIO: So I'm here, as we were building the house, the idea came about to off the master bedroom since it's looking out back that it would be nice to have a deck there, not only for the master bedroom but for walking outside something to cover the stairs and the actual sliding glass doors that are below it. I will admit to you being a little naive about construction and how things go I thought that was a great idea and we put it in without coming to the conclusion that there was the zoning board meeting and then there was extra supplies and then there was the building of it.

MR. TORPEY: This is your second time here.

MR. TARSIO: This would be my second time here.

MR. SCHEIBLE: Seems like yesterday.

MR. TORPEY: He's a race car driver.

MR. TARSIO: That's really how it came about, it seemed like a good idea, we went ahead and put it in and then we slowed down a little bit because we realized there was a couple other steps that have to be taken care of and this being the first step so we wanted to propose the idea. And I really don't have much to say.

MR. SCHEIBLE: Gentlemen, any questions?

MR. HAMEL: Yeah, the deck is just for the second floor then?

MR. TARSIO: Correct, off the master bedroom.

MR. HAMEL: Four by 6 foot deck?

MR. TARSIO: Yes.

MR. TORPEY: You're not going to put a deck off the back door either?

MR. TARSIO: No, we're going to do some pavers, we like the look of some pavers.

MR. TORPEY: If you were to step out the sliding glass door, you would fall?

MR. TARSIO: Technically.

MR. SCHEIBLE: Now I have some pictures, I just want to verify that this picture that's the view from the, and what's this building right close to you right there?

MR. TARSIO: The building that technically is behind us is Mr. Cherry's building, Asphalt Pavements is the name of his company, we would have a nice view of the quarry and the little league field to the left.

MR. TORPEY: Watch a couple baseball games.

MR. TARSIO: The big sell is the little league games that we would get during the summer. I describe it as a working man's view, the quarry and everybody at work in the morning.

MR. CHANIN: Is the work going to cause any problem with respect to erosion or runoff?

MR. TARSIO: No, the way property's been graded and the way we're going to, actually, that back part where you are going to step out the first floor is going to be at some point hopefully over the summer we're going to put pavers down, we'll have a retaining wall there so don't anticipate anything with erosion. The property was graded properly, we haven't had any problems with erosion to this point.

MR. CHANIN: Is it going to cause any ponding or collection of water or anything of that nature?

MR. TARSIO: No.

MR. CHANIN: Are you going to cut any vegetation or make any significant change to the landscape of the property?

MR. TARSIO: No, the only significant change, landscape of the property would be posts into the ground to hold the deck up.

MR. CHANIN: Is it going to create an increase in traffic or any other sort of activity that's not going on there now?

MR. TARSIO: No, actually, four foot off the house it's, there's really only about 25 feet of space, some parts 28 feet of space. So there's not going to be a ton of traffic there to begin with. The only big reason is really we needed something to kind of cover the stairs coming out of the first floor slider and four foot deck was nice for a master bedroom and nice to have some type of coverage for that area if you're walking out the first floor, you've seen the picture, there's really no coverage there and we're going to put some railings up for the steps coming out as well. So we're going to use the posts that we're going to put in the ground for a set of railings as well.

MR. CHANIN: Would the work interfere with someone else's viewshed, what other people can see from their property?

MR. TARSIO: No, the house, if we're standing in the back looking at the back, the house would be to the left of us is vacant right now, it's a single floor. I don't see the view that they're having now, I don't see how it can impede anything, obstruct any view and I don't know the back side of Mr. Cherry's building I don't know if--

MR. TORPEY: If he wants a view.

MR. TARSIO: Yeah, you know, if he's going to, if that's going to obstruct anything for his building.

MR. SCHEIBLE: It looks as if you're finished with this house, is that true?

MR. TARSIO: We're moving along nicely, I will admit that we do have to finish the floors and the doors and plumbing, setting the toilets, Central Hudson has to finish putting the gas line in but we're moving along nicely.

MR. BEDETTI: If I read this correctly, what's the distance between the house and your rear property line without the deck, 25 feet?

MR. TARSIO: Yes.

MR. BEDETTI: And the code here is 50 so you already have a pre-existing, non-conforming situation here.

MR. TARSIO: That would be correct.

MR. BEDETTI: Do you have an existing variance for the house itself?

MR. TARSIO: Yes.

MRS. PELESHUCK: They were here a couple months ago.

MR. BEDETTI: I know you mentioned this is the second meeting, it's the first time that I remember seeing the deck thing so you already don't have enough room to meet the code for the deck.

MR. TARSIO: Correct, we didn't have enough room.

MR. BEDETTI: Yeah, I got the situation, that was the only question.

MR. TORPEY: If he doesn't put the deck up--

MRS. PELESHUCK: He'll fall.

MR. BEDETTI: So the only, the people that are immediately behind that is that block building, is that correct?

MR. TARSIO: Yeah, Bill Cherry's building, Asphalt Pavements.

MR. BEDETTI: That's a business garage.

MR. TORPEY: That's correct.

MR. BEDETTI: I'm good.

MR. SCHEIBLE: I'm looking at these pictures here now, what I don't see is a sketch of the deck, what it would look like.

MRS. PELESHUCK: We don't ask for that, the building department does not ask for that until they get their variance. Once they get their variance then we ask for additional--

MR. SCHEIBLE: I was just curious what it would look like to the other neighbors.

MR. TARSIO: Right, I have an idea in my head but I'm a horrible drawer so I'll just refrain from that.

MRS. PELESHUCK: It will be on file in the building department.

MR. SCHEIBLE: Well, this is a two step program of the zoning board so is there a motion from the members to set up a public hearing?

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Anthony and Patricia Tarsio for a proposed deck on 5 Foley Avenue in an R-4 zone.

MR. TORPEY: Second that.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MRS. PELESHUCK: You're good, here are your next steps, you have some time in between.

MR. TARSIO: Thank you very much.

ROBERT & ERINN CHATFIELD (12-12)

MR. SCHEIBLE: Next on tonight's agenda is Robert and Erinn Chatfield, am I correct?

MR. CHATFIELD: Yes.

MR. SCHEIBLE: Proposed four foot above-ground pool does not meet minimum 10 foot rear and side yard setbacks. A variance of six foot on the side yard and five feet on the rear property line is requested 2205 Reveres Run in an R-3 zone.

MR. CHATFIELD: Rob Chatfield, 2205 Reveres Run, New Windsor, New York 12553. I'm here to request the variance for five foot in the back, six foot on the side for an above-ground pool. I have a third of an acre lot, there's enough room to fit it without a variance but it's a third of an acre lot and I have three girls so I'd like to still have a back yard, that's why I'm bald and gray.

MR. TORPEY: It's over.

MR. CHATFIELD: There's enough room to fit it without the variance but I'd like to maintain some of the back yard and get the pool at the same time.

MR. SCHEIBLE: Where are we, that's the question I was going to ask?

MR. CHATFIELD: It's in The Reserve.

MR. SCHEIBLE: I lose track of names up there, street names.

MR. CHATFIELD: Us too.

MR. BEDETTI: This is one of the steel wall or aluminum wall?

MR. CHATFIELD: Yes, it's 32 by 16 is the one we're looking at. There's an existing fence, although it's above ground so I don't believe that that matters but.

MR. SCHEIBLE: I'm looking at the pool, I see the pool, is there any intention of putting a deck around the pool?

MR. CHATFIELD: I talked about it at the building

department, at this point, no, in the future, maybe at which point we'd have to apply for a permit. There's only so much in the budget. I have three girls, as I mentioned.

MRS. PELESHUCK: If I can add where he's looking to possibly put the deck, he would not need a variance, we went through that so he wouldn't have to come here twice.

MR. TORPEY: That's cause he has three daughters.

MR. HAMEL: How far is the house in the back from your property line?

MR. CHATFIELD: It's 36 feet I believe it is so I don't know if the pictures were included, the pool would go where the swingset is.

MRS. PELESHUCK: The pictures are all the way in the back.

MR. CHATFIELD: Lengthwise where the monkey bars are.

MR. SCHEIBLE: Is there any intention of removing any trees, just a few questions I have to ask, removing any trees or substantial vegetation?

MR. CHATFIELD: No.

MR. SCHEIBLE: You're not building on top or nor will it interfere with the easements or right-of-way including but not limited to water, sewage, electrical, is there any electrical or water under the area of that?

MR. CHATFIELD: No.

MR. CHANIN: You have to speak up.

MR. CHATFIELD: I'm sorry, no, no, sorry.

MR. SCHEIBLE: Will it not create a ponding or collection of water, divert the flow of water in the drainage? Is there any drainage going off the property at that point?

MR. CHATFIELD: No, it will not create an issue there.

MR. SCHEIBLE: Have there ever been any complaints

either formal or informal about the pool?

MR. CHATFIELD: No.

MR. BEDETTI: The pool does not exist.

MR. CHATFIELD: No, most of my neighbors know about it, I have been talking to them knowing that I'm going through the variance process so they can be prepared for the letter.

MR. CHANIN: Are there any above-ground pools in the neighborhood?

MR. CHATFIELD: There's two probably within 125 yards of the house and the neighbors next to us have an inground.

MR. SCHEIBLE: This pool I'm sure will be put in by a certified pool builder?

MR. CHATFIELD: I was debating doing it myself but as I'm realizing how little time I have and how much work it would entail, I might not do that. So yes, it will end up being that.

MR. SCHEIBLE: The only reason I ask the walls break down, washes out somebody's grass.

MR. CHATFIELD: There's a drainage ditch in between my house and the house behind it that runs off into the sewer line.

MR. SCHEIBLE: Gentlemen, any further questions? I'd like to have a motion before us to set up a public hearing.

MR. HAMEL: I'll make a motion that we schedule a public hearing for Chatfield for the variance as requested.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MRS. PELESHUCK: Here are your next steps.

MR. CHATFIELD: Thank you.

MR. CHANIN: Did you let the homeowner's insurance carrier know?

MR. CHATFIELD: Yes, I did, that's the last thing I need, thank you.

RONALD HARSCH (12-13)

MR. SCHEIBLE: Next is Ronald Harsch, correct, the name is correct?

MR. HARSCH: Yes.

MR. SCHEIBLE: An existing eight by ten shed that does not meet the minimum 10 foot rear and side yard setback. A variance of eight foot is required at 100 Pine Drive in an R-4 zone.

MR. HARSCH: I'm Ronald Harsch, owner of the property at 100 Pine Drive which is the Lacey Field section of New Windsor, requesting a variance for an existing eight by ten shed located in the corner of the property is the most inconspicuous location on the property, it borders the rear property of two other neighboring lots, it's tucked in the corner of all three properties. There's a fence separating the properties as well and I'm requesting a variance for the current location of the shed to store recreational and lawn equipment.

MR. SCHEIBLE: How long has the shed been there presently?

MR. HARSCH: It's been there about 20 years.

MR. SCHEIBLE: Has anyone ever complained up to this point in time?

MR. HARSCH: No, sir.

MR. SCHEIBLE: What's the reasoning for coming in now looking for a variance?

MR. HARSCH: I'm attempting to sell the property.

MR. SCHEIBLE: That's what I suspected, yeah. I have to ask you a few questions. The configuration, the topo of the premises makes the location of the shed other than in its present or proposed location not feasible. Is that feasible or not feasible to locate it in this area?

MRS. PELESHUCK: It's there.

MR. SCHEIBLE: You're there already, you're not sitting on somebody else's property?

MR. HARSCH: No, it's not.

MR. SCHEIBLE: You're not going to remove any trees or substantial vegetation?

MR. HARSCH: No, sir.

MR. SCHEIBLE: The applicant will or did not build on top of nor will it interfere with any easements or right-of-ways included but not limited to water, sewer or electrical.

MR. HARSCH: No, sir.

MR. SCHEIBLE: You don't have any water lines running underneath?

MR. HARSCH: No, sir.

MR. SCHEIBLE: Do you have electric to the shed?

MR. HARSCH: No, sir.

MR. SCHEIBLE: Question was if you did it underground. Will or did it not create the ponding or collection of water or divert the flow of water drainage? Do you have any drainage problem back in that area?

MR. HARSCH: No, sir.

MR. SCHEIBLE: All right, and the reason your neighborhood here it says the shed will be similar to in size and nature of other sheds in the neighborhood? Do you have neighbors with the same type of shed?

MR. HARSCH: Not immediate neighbors, sir, sheds in the neighborhood.

MR. BEDETTI: Yeah, I have a question. Actually, I have two questions. What is the shed sitting on, is it on a foundation?

MR. HARSCH: On a concrete slab.

MR. BEDETTI: What would prevent you from moving the shed to be conforming to the code?

MR. HARSCH: It would be difficult to move the shed in one piece.

MR. BEDETTI: Was it stick built or was it a--

MR. HARSCH: No, it was built on site.

MR. BEDETTI: So is it anchored to the slab?

MR. HARSCH: No, it's sitting on the slab.

MR. TORPEY: It's not made to be slid around.

MR. HARSCH: No.

MR. SCHEIBLE: Any further questions? Motion to set up a public hearing for Ronald Harsch for an existing eight by ten shed.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Ronald Harsch for an existing eight by ten shed located at 100 Pine Drive in an R-4 zone.

MR. TORPEY: Second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MRS. PELESHUCK: Here are your next steps.

MR. HARSCH: Thank you.

PUBLIC HEARINGS:

SIGN HERE SIGN COMPANY FOR HEALEY KIA (12-09)

MR. SCHEIBLE: At this time, I'd like to open this section of the zoning board meeting to public hearings. Number one on this evening is Sign Here Sign Company for Healey Kia for a freestanding sign not to exceed 64 square foot. The proposed freestanding sign is 85.25 square foot and the variance needed for this sign is 21.25 square foot. The second variance for an additional facade sign which is the Kia oval is 2 foot by 3.3 foot. The sign variances are needed for 130 Temple Hill Road in a C zone.

MR. VOBIS: Good evening.

MR. SCHEIBLE: Would you give us your name?

MR. VOBIS: Howard Vobis from Sign Here Sign Company on behalf of Kia Motors and Healey Motors.

MR. CHANIN: Just make sure that Miss Roth can hear you.

MRS. PELESHUCK: What would you like to do?

MR. VOBIS: Well, I did appear in front of this board last month I believe or the month before requesting a variance for two signs on the property. Basically, my presentation included removing some of the ugliness of the freestanding signs that are on the site and replacing them with new signage to represent the Kia brand that's currently being retailed at that location. I did submit to the board, did Gail give you the color packets?

MRS. PELESHUCK: Yes.

MR. VOBIS: The board should have color packets of the new signage program with the existing and replacing comparisons. I think the board may agree I hope so anyway that we're enhancing the property making it a little more sightly and basically eliminating clutter. It was basically the premise of our variance application is we are actually reducing the number of square footage of signage on the property, unfortunately, the new proposed signage does not conform to the Town Code due to its shape.

MRS. PELESHUCK: We have to take one sign at a time. Do you want to start with the freestanding sign? We have to vote on them separately.

MR. VOBIS: Whatever you want.

MR. SCHEIBLE: The sign does or will not interfere with the safe operation of motor vehicles to the adjacent, on the adjacent roadway, in other words?

MR. CHANIN: Is that correct?

MR. VOBIS: It should not be that, it's replacing a sign that's there. The existing sign as far as I know has not created any kind of visual impairments.

MR. SCHEIBLE: The sign is or will not be built on top of nor does it interfere with any easements including water, sewage or electrical easements?

MR. VOBIS: Again, based on what I said as far as it's replacing an existing sign, the existing sign should have conformed and I believe there's probably permits issued in the past so that should all comply.

MR. SCHEIBLE: In constructing the sign will the applicant or the applicant will not remove any trees or substantial vegetation?

MR. VOBIS: No.

MR. SCHEIBLE: The sign does or will not create the ponding or creation of water or divert the flow of water drainage? There's nothing to stop any drainage?

MR. VOBIS: Not if we do our job right.

MRS. PELESHUCK: Is the sign going to be illuminated?

MR. VOBIS: Internally.

MRS. PELESHUCK: Non-flashing?

MR. VOBIS: Non-flashing.

MR. SCHEIBLE: Present sign illuminated?

MR. VOBIS: Yes.

MR. SCHEIBLE: Naturally, I'm looking at, you have a

post holding up the former sign?

MR. VOBIS: Correct.

MR. SCHEIBLE: And the bottom the new Kia sign has this?

MR. VOBIS: Just a deck or a cover.

MR. SCHEIBLE: But I'm looking at the traffic here, I don't think that will cause any--

MR. VOBIS: Due to the setback off the road, if you look at the proximity of the sign with the, well, I do have a small site plan here but you can see the proximity to the utility pole, it's still substantial. Right here it's identifying a 23 foot setback.

MRS. PELESHUCK: Over here, that's old Temple Hill.

MR. VOBIS: Seventeen foot setback.

MR. SCHEIBLE: Gentlemen, any questions?

MR. TORPEY: No questions here.

MR. BEDETTI: Does the new sign use the same support pylon?

MR. VOBIS: No, that would all be replaced including the foundation. Just for clarification to the board even though we're replacing the existing sign, the new foundation would be going adjacent to the existing foundation because obviously we can't dig where there's already a foundation. So we're going right adjacent to it but the setback would remain the same so we'd be going to the left or the right, correct, we wouldn't be going any closer to the road, more than likely given this topo we'd be going inward versus close to the entrance.

MRS. PELESHUCK: Do you want to make sure they're going that way?

MR. VOBIS: I'm telling you we're doing that.

MR. SCHEIBLE: The old, what is it, the old building next to you which was occupied by what was their names again?

MR. HAMEL: Babcock is it?

MRS. PELESHUCK: There's a car dealer, wait, Robert Babcock.

MR. SCHEIBLE: But on this side.

MRS. PELESHUCK: It was Blockbuster, it's out of business.

MR. SCHEIBLE: Are you occupying the Blockbuster building?

MR. VOBIS: No.

MR. SCHEIBLE: Because I see cars parked all the way around.

MR. VOBIS: My client may be subleasing that but that has no bearing on the property that we're presenting here.

MR. SCHEIBLE: That's why I was just curious if you're going to be using that building as a showroom or whatever.

MRS. PELESHUCK: It's just the sign company.

MR. VOBIS: I'm the sign guy.

MR. SCHEIBLE: Just asking.

MRS. PELESHUCK: I do know the owner that owns that building does own that property and the car wash behind there.

MR. VOBIS: That's why you guys keep her around.

MR. SCHEIBLE: Gentlemen?

MRS. PELESHUCK: We need to go on to the other sign before we can open it up, the Kia oval.

MR. VOBIS: That would be the building sign.

MR. BEDETTI: We're going to hear these separately, all at one time and then vote on them separately?

MRS. PELESHUCK: So we can open it to the public before.

MR. SCHEIBLE: Now we do sign number two here.

MRS. PELESHUCK: Right.

MR. SCHEIBLE: I'll go through the same questions for sign number two, sir. The sign does or will not interfere with the safe operation of motor vehicles on the adjacent roadway?

MR. VOBIS: No, sir.

MR. SCHEIBLE: The sign is or will not be built on top of or does not interfere with any easements including water, sewer or electrical easements?

MR. VOBIS: Not unless the building's non-conforming so--

MR. SCHEIBLE: The sign will or will not be or will be illuminated, any illumination is exterior, interior but not flashing or contain any strobe like lighting?

MR. VOBIS: It's internally illuminated.

MR. SCHEIBLE: No strobe lighting?

MR. VOBIS: No.

MRS. PELESHUCK: It's steady, non-flashing?

MR. VOBIS: Ah-huh.

MRS. PELESHUCK: We can open it up to the public.

MR. SCHEIBLE: At this point in time I'd like to open this section of the public hearing to the audience, any questions, please? No one is in at this point in time so I'd like to close the public hearing.

MRS. PELESHUCK: On the 30th day of April, 2012, I mailed out 18 addressed envelopes, received no written response back but, however, one did come back returned. Now we can vote on them separately.

MR. SCHEIBLE: Is there a motion being made forward on this?

MR. CHANIN: Approve the freestanding sign first.

MR. SCHEIBLE: Is there a motion to approve the freestanding sign?

MR. HAMEL: I'll make a motion that we grant Sign Here Sign Company the variance as requested for the freestanding sign.

MR. BEDETTI: I'll second that motion.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MR. CHANIN: Now the facade sign.

MR. BEDETTI: I'll make a motion that we grant the variance for the extra facade sign as requested by Sign Here Sign Company at 130 Temple Hill Road in a C zone.

MR. HAMEL: I'll second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MRS. PELESHUCK: You're approved, here are the next steps for the building department.

AMISH PATEL FOR DUNKIN DONUTS (12-10)

MR. SCHEIBLE: Next on this evening's agenda for a public hearing is Amish Patel, is that correct, for Dunkin Donuts, a freestanding sign which shall not exceed 64 square foot total faces. The proposed sign will be 150.34 square foot, a variance of 86.34 square foot is required at 1002 Route 94 in a C zone.

MRS. PELESHUCK: You are for the record?

MR. PATEL: Owner is Amish Patel and I have the proxy from the owners. My name is Jay Patel, address 1212 Madison Avenue, Patterson, New Jersey, 07503 and he's also my brother-in-law. And according to this we're in the same business too so I have a Dunkin Donuts business in Nutley, New Jersey. He couldn't make it so I have to fill in.

MR. CHANIN: Speak loud enough so that not only the stenographer but the people in the audience can hear you.

MR. J. PATEL: Sure.

MRS. PELESHUCK: The sign has been in existence for?

MR. J. PATEL: Almost a grandfather's, I remember when my brother-in-law bought the Dunkin Donuts, the size was existing, actually, I have no idea how many years it's been there but what we're planning to do there keeping the same location, same pole, same size only thing we're replacing is the face of the sign, Dunkin Donuts sign, which is now Dunkin Donuts has a new logo, it doesn't have a cup, new sign has a cup with the Dunkin Donuts so per franchise requirement we're required to replace the sign to bring it to the new code as the Dunkin code's every 10 years.

MR. CHANIN: When was it purchased?

MR. J. PATEL: Almost 10 years ago.

MR. CHANIN: So the sign's been in existence for no less than 10 years?

MR. J. PATEL: That's correct.

MR. TORPEY: Really not changing nothing but the appearance.

MR. J. PATEL: Nothing, just the face of the sign.

MR. BEDETTI: Is the size of the sign the same, the old one and new one are both the same size?

MR. J. PATEL: Same size.

MR. TORPEY: What size is the cup going to be?

MR. J. PATEL: The sign is not going to change.

MR. TORPEY: Medium or large?

MR. J. PATEL: Medium cup.

MR. CHANIN: If you really wanted to make him upset with us, is it still true that people over the age of 50 get free coffee?

MR. J. PATEL: Senior citizen discount, we do offer police officers, yes, free coffee, we have one day once a year actually June 15 that's the free coffee day.

MRS. PELESHUCK: The reason why they're here as well is that sign never received a variance cause it was put up so long ago. I don't even know if it needed a permit at that time so now that they're changing it they have to go through the process.

MR. J. PATEL: Correct.

MR. CHANIN: Do you understand what Nicole is saying?

MR. J. PATEL: Yes.

MR. HAMEL: Sign is back lit so but both sides non-flashing?

MR. J. PATEL: Yes, that is correct. No, the face is going to change on both sides so it has two faces, yes.

MR. SCHEIBLE: The sign will it or will it not be illuminated, any illumination is exterior, interior but does not flash or contain any strobe or similar lights?

MR. J. PATEL: No, it does not, it has just a steady light bulb.

MR. SCHEIBLE: On this sign are there any easements

that this will be built on? In other words, have there been easements issued over the years for this sign to be built on?

MR. J. PATEL: So far none.

MR. SCHEIBLE: Gentlemen, any questions?

MR. SCHEIBLE: Is there anyone in the audience that has any questions pertaining to this request? No, nobody here.

MRS. PELESHUCK: Close the public hearing.

MR. SCHEIBLE: At this point in time I'd like to close the public hearing and is there any motion?

MR. CHANIN: Wait.

MRS. PELESHUCK: I have to read. On the 30th day of April, 2012, I mailed out 22 addressed envelopes and received no written response back.

MR. SCHEIBLE: Is there a motion from the floor?

MR. BEDETTI: I'll make a motion that we grant the variance for a freestanding sign to Amish Patel for Dunkin Donuts located at 1002 Route 94 in a C zone.

MR. TORPEY: I'll second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

MRS. PELESHUCK: Here are the next steps.

MR. J. PATEL: Thank you very much board members.

FORUM/JOHN EVANS ESTATE SUBDIVISION (12-11)

MR. SCHEIBLE: Next this evening opening up a public hearing on Forum/John Evans estate subdivision/William Spade. Referred from the planning board for proposed five lot subdivision which needs variances for all lots. Gross lot and net area for all five lots, lot width for lots one, two, three and five, variances for front and side yard for all lots, total side yard for lots one, two, three and five, rear lot for all of the five lots and frontage for lots one and two are required for five vacant lots on Suburban Court in a PO zone.

MR. SPADE: Bill Spade, the architect. Also with me this evening is Paul Fornaby who is part of the ownership company. A quick overview, this is an existing subdivision originally approved in 1977 as part of 11 to 14 lots depending on how the plan was done then. In most of that lots were not built out over the years from 1977. And in 2004, the prior owner to Forum acquired the property and went through a resubdivision of the lots to increase the lot sizes and that was finally approved in 2006 by the planning board, two homes were constructed out of that resubdivision, out of what was then a total of seven lots. My client has purchased the five remaining lots which are four contiguous lots on the south side of Suburban Court and one lot in between the two existing homes on the north side. We're proposing to reconfigure the four contiguous lots on the south side of Suburban Court into five lots in order to reduce the lot sizes in order to make the lots more affordable and the homes more affordable for construction. We principally believe that the size of the lots and the size of the homes that would have resulted were probably the reason that the homes have not been constructed and in fact, one of the lots the in between lot has an excavated foundation that was stopped I think three or four years now that that's been an excavated hole so my client intends to proceed quickly as possible with construction on these lots and sees the affordability of the lots as the critical factor to be able to proceed. So, therefore, in reconfiguring those four lots into what we're proposing as five lots, the size range would go from the four contiguous lots that presently have a range of 14,700 square feet up to 18,800 square feet and we're proposing a lot range of about 12,300 square feet to 13,600 square feet. Those lot sizes are comparable, as I said, that was the size

of the lots that were originally approved in 1977 and is comparable to the subdivisions that exist around the property to the north. Many of those lots are in the 12,500 square foot range. So we see this as being able to produce homes that are in context with the other homes in surrounding neighborhoods. The variances that will become acquired are due to the fact that the zoning on this particular property is the PO zone, Professional Office, which allows single family but has substantial single family requirements first off which is the lot size has to be one acre lot and many of the setbacks and other kinds of zoning parameters are related to that size of property. So with these small lot sizes many of the parameters of the zoning require therefore variances. Interesting to note that when the lot sizes were increased between the 1977 plan and the 2006 plan, no variances were required because the lot sizes were being increased but now because we're proposing a decrease in the lot sizes we need to get variances and they relate benchmark to the variances related to the underlying zoning requirements. As you alluded to, the variances that are required include minimum lot area, minimum lot width, required front yards, side yard, two side yards, the rear yard and the required frontage. With regard to minimum lot width required front yards, side yards and rear yards, we're proposing the same requirements that are on the existing two completed homes and which were approved as part of the 2006 plan, those include a front yard setback requirement of 35 feet as compared to the 45 foot requirement of the underlying zoning, side yard 15 feet versus 20 feet, two side yards totaling 30 feet versus 40 foot requirement, a rear yard of 40 feet versus a 50 foot requirement, required frontage, we have two lots that are undersized as compared to the PO zone requirement of 70 feet, we have three lots that are proposed exceed the required frontage requirements there. Only with regard to the minimum lot area are we in variation to the 2006 plan that was proposed and again we're proposing lot sizes that relate to the surrounding neighborhoods and again in the range of 12,300 square feet to 13,600 square feet. We propose and show on the plan a proposed home size of about 2,000 square feet and you see that configured on one of the lots on your plan and this would be the standard home would be a two story home, a footprint of roughly 36 feet wide by 28 feet deep with a two car garage on the home and again targeting a range of about a 2,000 square foot home. And, again, we're proposing that home size because we believe that's the market at the

moment that's most active in the area as an intention to try to get this property developed and finished which I think would make everybody happy as opposed to the conditions that are there now. By the way, I will mention with regard to minimum livable area development coverage and parking we would be proposing to meet those requirements as it is in the existing zoning. Finally, I would just go over the parameters of the variance that you would be considering, can the benefit, four parameters, can the benefits be achieved in any other way? No, the proposal of the lot size reductions enables as I've said enables the lots to be more marketable, keeping the lot sizes as they are just becomes another barrier to being able to make a more marketable product out of them. Secondly, is the variance substantial? We propose no because we're really matching the lot sizes that were originally approved in 1977. Thirdly, is there an adverse effect on the environment? No, we are obviously proposing to build out homes on these lots which would be done in any event and certainly compared to the existing condition being able to proceed would improve the environment there. Fourthly is whether the difficulty is self-created? No, the existing zoning is substantial compared to the lots that were approved so we're just proposing to again match up with the lot sizes that were originally approved for the property. That's a quick overview of everything. I'd certainly be happy to address specific questions.

MR. BEDETTI: I think the last time that you were here one of the questions that was asked was the two lots that have been already been built out, what was the size of those lots? At that time, you didn't have that information available.

MR. SPADE: And I may not have the specific, I'm sorry, I do in fact, I think have a reference on a plan to those lot sizes.

MRS. PELESHUCK: You want to know how big the houses are?

MR. SPADE: Lot sizes was the question.

MR. BEDETTI: Lot sizes, the lot area?

MR. SPADE: I don't have that, there was a plan that showed that, I don't have that here.

MR. TORPEY: Why are we cutting those lots up so small in the first place?

MR. SPADE: I'm sorry?

MR. TORPEY: Why are we cutting those lots up so small?

MR. SPADE: Proposing to make them smaller? Again, to make them more marketable, we believe that the reason that these lots have sat vacant and unsold effectively since 1977 is that--

MR. TORPEY: That's how long that's been sitting there?

MR. SPADE: Yeah.

MR. TORPEY: Can't be.

MR. SPADE: The subdivision was originally approved in 1977 so presently there are only the two homes that are on this portion, there's a couple of properties along Blooming Grove Turnpike that were part of that subdivision that were built probably back at that time period. But so, again, the purpose was to make them more marketable, bring it into a price point that we believe the market supports.

MR. BEDETTI: Did you have those figures?

MR. SPADE: I don't have those exact ones. The existing lots range in size, well, let me even say this, the lots on that end of the cul-de-sac are roughly 17,000 to 18,000 square feet, that would be the lot 26 which is between the two built homes and then the next lot around, so my guess it would be in that range 17,000 to 18,000 square feet are those lot areas. You can see you have your plan there you can see that this 26, the one in between is 17,000 square feet so the one on the cul-de-sac is probably a comparable size so that has an existing home, that has an existing home and just saying by visual comparison.

MR. BEDETTI: These you say are probably around 17,000?

MR. SPADE: This might be slightly smaller, this seems to be comparable.

MR. CHANIN: When were the two homes on the larger lots sold?

MR. FORNABY: I can chime in there, the first was before--

MR. SCHEIBLE: Could you give your name?

MR. FORNABY: Paul Fornaby, Forum, New Windsor. The first home was sold before the financial crisis so that was maybe early part of 2008 and then the second one was sold I believe it was 2009, could have been towards the end of 2009.

MR. CHANIN: Thank you.

MR. SPADE: Those again were done by the prior owner who we understand went through foreclosure bankruptcy process and that's how Mr. Fornaby has purchased the lots.

MR. CHANIN: Were you referred by the planning board?

MR. SPADE: Yes.

MR. CHANIN: Did the planning board assume lead agency under SEQRA?

MRS. PELESHUCK: We deem it incomplete and they'll go back and they'll go back and assume lead agency after this meeting.

MR. CHANIN: Will the planning board require a short form EAF to be filed?

MRS. PELESHUCK: We have it.

MR. CHANIN: It's been filed?

MR. SPADE: Yes.

MR. CHANIN: Did you take a hard look at things such as environmental impacts?

MR. SPADE: Yes.

MR. CHANIN: Did you take a hard look at the municipal storm water sewer systems and that kind of thing?

MR. SPADE: Which are in place.

MR. CHANIN: So there are erosion controls and runoff and drainage and all kinds of preliminary things are

already there?

MR. SPADE: Right.

MR. CHANIN: And the properties that you're discussing are hooked up to town utilities?

MR. SPADE: That's correct, and those exist already in the street.

MR. CHANIN: And by dividing it into new lots will you have to amend those connections?

MR. SPADE: I don't know the status of specific connection points, whether those were extended into the properties, possibly, there's, in several circumstances there's minor variation in the lot line location and so it may be just one lot that would require a new connection point but certainly that would have to be analyzed.

MR. CHANIN: In doing your MS4 work, did you look at the question about whether or not should the variances be granted the smaller lot size and additional building lots would that cause any concern with respect to any increased ponding or flooding or erosion or drainage issues?

MR. SPADE: We haven't analyzed that specifically yet but that certainly would be something.

MR. CHANIN: In order to get your approval from the planning board you're going to have to.

MR. SPADE: Correct.

MR. CHANIN: Anything else? Are you, I assume since you already owned the property and you're developing it you have already cleared issues away, including right-of-ways or any competing land interests?

MR. SPADE: Correct, there's one existing easement that has to be relocated slightly related to two of the lots that the easement followed the lot line but other than that--

MR. CHANIN: Is that a utility easement?

MR. SPADE: Storm water.

MR. CHANIN: Have you had conversations with the appropriate town officials with respect to access for emergency vehicles, turning radiuses on the street, driveway locations, those kinds of things?

MR. SPADE: Not yet, certainly--

MR. CHANIN: But that's pending based on the action of this board?

MR. SPADE: Correct.

MR. CHANIN: Do you know what the parking regulations are on Suburban Court?

MR. SPADE: I believe it's two spots. Parking spots per residence you're saying for the home lots themselves or on the street?

MR. CHANIN: Both.

MR. SPADE: I don't know the requirements on the street itself.

MR. CHANIN: What about for the home lots?

MR. SPADE: Two spaces per lot.

MR. CHANIN: And will the homes that you propose to build have an attached garage?

MR. SPADE: Yes.

MR. CHANIN: Will those be two car garages?

MR. SPADE: Yes.

MR. CHANIN: Will there be living space above the garage or attached?

MR. SPADE: It may vary, we have a plan that shows living space above the garage and plans that are no living space.

MR. CHANIN: Are you going to do any extra planting of vegetation or other natural landscaping features that would be made necessary if the variance were granted?

MR. SPADE: The present properties are clear cut, I don't know if somebody's been maintaining it that way

or that's the present condition, we will certainly plant some landscaping with the approved lots.

MR. SCHEIBLE: Has the road been dedicated since it's been built?

MR. SPADE: I think there's still a step to do on that, I've had a brief conversation with the building inspector about the completion of that, I think there's still an outstanding bond that has to be resolved, there are some items that have been completed that haven't been as it were signed off related to that bond so we have to do some review on that and determine there may be a reduction in that bond but then an outstanding amount is still complete. The one thing I know for sure is the final topping on the road is not there yet, it's still the rough topping on the road so that would be something we can do to complete.

MR. SCHEIBLE: All these years the people that are living there this road was never finished?

MR. SPADE: No finished topped, yeah, and the curbs are there, culverts for drainage, you know, those kinds of improvements appear to be in place and appear to be in good condition so it may be just that the road topping was the late item to complete.

MR. CHANIN: Is this property in a flood plain?

MR. SPADE: As far as I know, no.

MR. TORPEY: Who is going to do the snow removal and the upkeep on the road?

MR. SPADE: I think the prior owner was responsible. Mr. Fornaby just took the property in March so we haven't had to address snow removal at the moment.

MR. CHANIN: Did the town last year or the year before pass any local laws adopting amendments to the flood plain maps?

MRS. PELESHUCK: They did.

MR. CHANIN: You're in the clear as long as the town did that, I'm not the town attorney, but as long as the town did that people who may want to purchase any of these properties in the future can get flood insurance. If the town did not do that they couldn't.

MR. SPADE: Okay, thank you.

MR. BEDETTI: I have one more question regarding the original two lots that were there. If these lots that are currently subdividing were made to be at least as large as the smallest of the two lots, what would be the impact on your overall buildout here? Would you lose one lot? Would you lose, I mean, let me just tell you where I'm going. I have a real problem with people that bought those first two lots of a certain size knowing that they would be in an environment, in a development that would be all similar size lots and now we come and that plan changes, all right, not as a result of anything that they have done obviously. But now we have an impact on those people as well. And I'm a little bit concerned about that and any protection that we as a board may have to consider them in this changeover. So I want to know what would you lose in the number of lots that you have to build out here if you were to make the minimum size the same size as the smaller of the two lots that have already been occupied?

MR. SPADE: Well, I'll answer it this way. Those four existing lots range in size from 14,600 square feet up to 18,800 square feet. It may be better to say three of the four existing lots range in size 14,600 to 15,500, so our 2,000, 1,500 square feet smaller than that, the other lots you're comparing to, so they're already smaller than that say for one of the lots. So were this not to get approved, it would have to remain the four lots that are presently, there's no reconfiguration of those lots that would make sense. The issue being there's been a marketability problem already obviously by the fact that those lots haven't been developed and built.

MR. BEDETTI: As far as marketability is concerned, I see that as two lots, you have the lot and you have the house that you're building on. Now, you know, the lot to be considered separately and then you can put a smaller house on it, doesn't have to be a McMansion then it becomes more marketable. But like I said, I'm really concerned about those people that bought those two lots prior to this reconfiguration.

MR. SPADE: Right, my own response would be certainly be better that houses get built on those lots than they remain as they are, it's not very pretty, obviously, at

the moment to have the weeded lots there and one lot has an excavated hole around with a fence around it so I think ultimately the driving force should be that some development, that the development get completed. I think Mr. Fornaby is a willing investor in seeing this go forward, believes the market is smaller homes on smaller lots. There's certain price points that make these happen and he believes that this is the configuration that will make these lots sellable. So I think at the end of the day, yes, there might be a thought about the fact that the larger lots would be nicer, yes, you know, everybody would like larger property but if the price points don't work for the market that's there then it remains vacant property. It's a market test and Mr. Fornaby is the willing investor who would like to put his money on the line to get these houses built and believes that this is the best way to make sure that happens.

MR. SCHEIBLE: I just want to before we do something here I just want to, we're downsizing all these lots and as you can see, people coming into this zoning board looking for variances on decks, they're looking for variances on sheds, we're not leaving much room for decks and sheds down the road here.

MR. TORPEY: What about a pool?

MR. SCHEIBLE: Or a pool. We're downsizing all these lots. Personally, I like the size of the lots the way they are but that's neither here nor there. But that's just a, we're opening up a Pandora's Box here where this could happen in the future, we're downsizing, there's not enough room for a deck or pool where presently for whatever reason, I don't know why they are not being sold. All right, maybe the price is too high but whatever reason maybe but I just, I always thought that was a nice little addition to New Windsor having this little cul-de-sac in there. That's just I wanted to express my view. Gentlemen, any further questions? At this point in time I'd like to open it up to the public. Is there anyone here who would like to stand up and present their case?

MR. JOHNSON: Yes, my name is Bill Johnson, I live on 9 Stone Ledge Lane which is probably behind the north side of the development. I'm not sure where that fits in.

MR. CHANIN: Speak loud.

MR. JOHNSON: So I live on 9 Stone Ledge Lane, I'm behind one of the existing of the two built houses, I just want to know how does that affect, can I see the map?

MR. SPADE: Sure.

MR. JOHNSON: Just kind of curious how any of these variances here affect me?

MR. SCHEIBLE: Mr. Johnson, don't want to interrupt you, you're off what street?

MR. JOHNSON: Nine Stone Ledge Lane, it's a cul-de-sac on the back side of this.

MR. CHANIN: Just to be clear, your question is that if this board grants these variances, you want to know how that would affect your property? Is that your question?

MR. JOHNSON: Yeah, I mean, are any of the variances directly affecting any of the lots abutting my property?

MRS. PELESHUCK: No.

MR. JOHNSON: This is all on the south side of that?

MR. SPADE: Yes, no, there's no change, the only undeveloped lot is the in between lot and that's remaining as is and so no, none of these variances would affect the properties that abut your property.

MR. JOHNSON: Okay.

MR. CHANIN: Do you have any other questions about any possible effects, Mr. Johnson?

MR. JOHNSON: As long as it's not affecting me directly, that's okay. My opinion the street's pretty narrow that Suburban Court, it's going to be tight in there, especially trying to park cars, to me, that street's pretty tight the way they built it. If I was living there, that's probably one of the bad selling points, it's not a very wide street.

MR. CHANIN: We're here to receive your comments and opinions, so if that's one of your comments, it's duly

received.

MR. JOHNSON: Okay.

MR. CHANIN: Do you have any other comments?

MR. JOHNSON: No.

MR. CHANIN: Does anybody else have any comments?

MR. JOHNSON: My wife had a question, it stayed uncovered so it was a danger to kids.

MR. CHANIN: The excavation that Mr. Spade was referring to before?

MR. JOHNSON: Yeah, but it was, they excavated it for a foundation, never put a foundation in and it stayed that way for I don't know how long, there's no fence there, somebody must of complained because they finally put a fence in.

MR. CHANIN: The law and the rules and regulations require that if there's an excavation that a fence be put up. I assume that was put up by the prior owner, not by Mr. Fornaby's company?

MR. SPADE: That's right.

MR. CHANIN: And the fence is still there in good condition?

MR. JOHNSON: Seems to be lot of old growth.

MR. CHANIN: Are you aware of whether or not there's been any difficulties with the fence or excavation that's affected anybody in the neighborhood?

MR. JOHNSON: No, just was concerned that it was uncovered for a long period of time.

MR. CHANIN: But not now?

MR. JOHNSON: No, it's fine now.

MR. SPADE: I would mention maybe that we're in the process of submitting an application for renewing the building permit on that lot and that would be something we'd intend to proceed with as soon as we're able.

MR. SCHEIBLE: Any other questions from the public?

MR. JOHNSON: No, we're good, thanks.

MR. SCHEIBLE: I'd like to close the public hearing section of this proposal. Before we take it to a vote, gentlemen, I want to alert you that there are normally five people that are sitting on this board. Tonight we have four. So in order for us to pass this on to you, in order for you to win this, there would have to be three out of the four would have to vote yes. So I just want to alert you or you can postpone it to another date.

MR. SPADE: Understood.

MR. SCHEIBLE: I just want to bring this up to your attention right now.

MRS. PELESHUCK: I'm just going to read the affidavit of mailings. On the 1st day of May, 2012, we mailed out 55 addressed envelopes and received no written response back.

MR. CHANIN: Do any board members have any other questions?

MR. CHANIN: Motion, now let me just say as a matter of procedure that the way the question should properly be phrased is a motion to approve. You can't vote in favor of a motion to disapprove, you have to make a motion to approve. The person who makes the motion and the person who seconds the motion are still entitled to vote no if you want to vote no. But the way the motion should be phrased is to approve the application for the variances as stated in the application.

MR. HAMEL: I'll make a motion that we grant variances for Forum New Windsor LLC the variances as requested for the building lots.

MR. TORPEY: I'll second that.

ROLL CALL

MR. BEDETTI	NO
MR. HAMEL	AYE
MR. TORPEY	NO
MR. SCHEIBLE	NO

MR. CHANIN: Your request for variances have been rejected. You may apply again but you must by state law wait no less than six months to submit the same application. You may submit a different request in less than six months but it has to be significantly different from this original application. If it is not significantly different, you must wait a minimum of six months. And that concludes our meeting.

MR. SCHEIBLE: Motion to adjourn?

MR. HAMEL: So moved.

MR. TORPEY: Second it.

ROLL CALL

MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. SCHEIBLE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer