

TOWN OF NEW WINDSOR

ZONING BOARD

December 10, 2012

MEMBERS PRESENT:      MICHAEL KANE, CHAIRMAN  
                             HENRY SCHEIBLE  
                             FRANCIS BEDETTI  
                             RICHARD HAMEL

ALSO PRESENT:      GEOFFREY CHANIN, ESQ.  
                             ZONING BOARD ATTORNEY

                             NICOLE PELESHUCK  
                             ZONING BOARD SECRETARY

ABSENT:      PATRICK TORPEY

MEETING AGENDA:

1. Burger King
2. McDonald's
3. Morning Pond Florist
4. Better Homes & Gardens Rand Realty
5. Muiza Tahir
6. Douglas Brown
7. Scheible LLC
8. Discount Dollar Market

**REGULAR MEETING:**

MR. KANE: I'd like to call to order the December 10, 2012 meeting of the New Windsor Zoning Board of Appeals.

PRELIMINARY MEETINGS:  
BURGER KING (PAUL LENOWICZ) (12-36)

MR. KANE: Preliminary meetings. First is Burger King, Paul Lenowicz. Proposed Burger King facade signs, they already have variances for four facade signs, however, the replacement facade signs are larger. The first facade sign 1'2" x 23'10" which needs a variance of 13' 10" in width. The second and third facade signs are both the same size and sign. They are 5' in a circle diameter, which requires a variance of 2.5' in height located at 366 Windsor Highway in a C zone. Come on up, tell us exactly what you want to do, sir.

MR. LENOWICZ: I'd like--

MS. PELESHUCK: I need your name and address.

MR. LENOWICZ: Paul Lenowicz, 2303 Lamson Road, Phoenix, New York 13135.

MR. KANE: Are you with the Sun Company?

MR. LENOWICZ: With Carols Corporation, operators of the Burger King.

MR. CHANIN: What's your title with that company?

MR. LENOWICZ: Construction Manager.

MR. KANE: Tell us what you want to do.

MR. LENOWICZ: We'd like to put up the standard Burger King signage that's required by Burger King. Corporate the signs, two of them being five foot logos, five feet in diameter round size, third one being Home of the Whopper, that's the sign that's 14 inches by 23'10".

MR. KANE: The signs illuminated?

MR. LENOWICZ: Yes, they are.

MR. KANE: Similar in illumination to what's up there now?

MR. LENOWICZ: Yes.

MR. SCHEIBLE: These signs that you're planning to establish, are they meeting the rest of the Carols Corporation signage?

MR. LENOWICZ: Yes, they are, yeah, they're standard signs for Burger King Corporation and we being a franchise we're required to use that signage.

MR. KANE: I remember when we gave you the variances the first time when you built the place.

MR. LENOWICZ: We rebuilt it 12 years ago.

MR. KANE: Yeah, I've been here 20. The length bothers me, you know, I mean, it's basically doubling the length that we have as a standard, the 23 foot 10 inch.

MR. LENOWICZ: Yes.

MR. KANE: We call for a 10 inch length and you're looking for a variance of 13 feet, more than doubling what the length is on that. Any proposal to make those a little bit smaller in any way? I usually ask to try to see if there's any kind of way to do that.

MR. LENOWICZ: To make the sign smaller in length, we'd also have to shrink the height of each letter down and when you start getting it down to requirements the letter would probably be eight, nine inches tall which wouldn't work, you wouldn't be all to read it from the road.

MR. SCHEIBLE: I'm looking at all these things here, this is from 32 looking at it or from the side?

MR. LENOWICZ: Home of the Whopper sign, long sign is from the side it faces Shop Rite.

MR. SCHEIBLE: Is there anything on the front facing 32?

MR. LENOWICZ: Just the round logo sign.

MR. KANE: That one you're looking to replace?

MR. LENOWICZ: Yes. We actually eliminated one.

MR. KANE: It's just the one sign that has the length on it.

MR. LENOWICZ: Yes, that's correct.

MR. HAMEL: Is this there now or is that another one?

MR. LENOWICZ: That would be it.

MR. HAMEL: So the sign's already installed?

MR. LENOWICZ: Yes.

MR. HAMEL: Okay.

MR. SCHEIBLE: Where is the nearest Burger King that's using the same size? Is the one on 17K using the same size since that's also a Carols Corporation?

MR. LENOWICZ: Yes, it is, we have two in Newburgh and we're going to be remodeling both of them in the spring so they don't have it yet.

MR. KANE: So to make the two round ones bigger or two additional--

MRS. PELESHUCK: They're going to put the round ones and one Home of the Whopper, right.

MR. LENOWICZ: Correct.

MRS. PELESHUCK: Altogether just three signs.

MR. LENOWICZ: Yes.

MRS. PELESHUCK: And eliminating the four that were there.

MR. LENOWICZ: Correct, the one on the back of the building which was a 30 inch round logo and then an illuminated Burger King letters similar to that.

MR. KANE: Those are going?

MR. LENOWICZ: Those are gone.

MR. KANE: These are taking the place of all that, okay. I had a feeling you were trying to go for adding them in addition to.

MR. LENOWICZ: No.

MR. KANE: Makes me feel a little bit better.

MRS. PELESHUCK: I knew that's where you were going.

MR. KANE: Further questions from the board at this time?

MR. BEDETTI: Yeah, how far from the road from 32 is the building, any idea?

MR. KANE: Just for the public hearing, if you can get an estimate for us that's why we hold a prelim.

MR. LENOWICZ: There's a grass buffer and we have a row of parking then we have, and it's a lane and then we have our drive-thru lanes so I would say in the neighborhood of 50, 60 feet.

MR. BEDETTI: So it's under 300 feet?

MR. LENOWICZ: Oh, yes, well under.

MR. BEDETTI: Actually, it's leeway if you were over, that's the reason for asking my question.

MR. LENOWICZ: Okay.

MR. HAMEL: So you don't see the sign unless you're going northbound on 32?

MR. LENOWICZ: You really don't see that sign unless you're in the parking lot.

MR. KANE: For the public hearing, if you can get us a little bit closer so that estimate from the street just so we have it for the record.

MR. LENOWICZ: Okay.

MR. KANE: Further questions?

MR. CHANIN: I have a procedural question. Now my understanding what's happening here is the applicant intends to replace four facade signs with three?

MRS. PELESHUCK: Correct.

MR. CHANIN: One variance is for the width of what we can call replacement sign number one.

MRS. PELESHUCK: Okay.

MR. CHANIN: Second variance refers to signs we'll call replacement signs two and three, they need 2.5 feet in

height?

MRS. PELESHUCK: Yes.

MR. CHANIN: Here's my question. Since all four facade signs are coming down and since the code only allows one facade sign, is another variance needed to allow the applicant to replace signs number two? And I think the answer is yes and I'll tell you why and I'll bow to your wishes, but the reason why I think the answer procedurally is yes, sir, because once the four signs are taken down now the property reverts back to code so if you're going to put replacement signs two and three on the facade in addition to number one, you need a new variance for those two additional facade signs.

MRS. PELESHUCK: Correct, I'll add it.

MR. CHANIN: Really what you're asking for is a variance with respect to each of the three new signs plus an additional variance allowing you to put signs two and three on.

MR. LENOWICZ: Okay.

MR. KANE: With the understanding that you're removing and foregoing the other previous variances to the site.

MR. LENOWICZ: Correct.

MR. CHANIN: Well, my point is once the original signs are taken down, the old variance is gone. Listen I have to write this stuff up so I've got to know what I'm talking about.

MR. KANE: Further questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Burger King for a variance for facade signs at 366 Windsor Highway in a C zone.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MR. KANE: I'd like to make an amendment, the facade signs as written with the addition of two additional facade signs and with him removing all others.

MR. CHANIN: The original signs to be removed and an additional variance required to allow the applicant to put up new replacement signs numbers two and three. Is that the board's understanding when the board voted?

MR. KANE: Yes.

MR. SCHEIBLE: Yes.

MR. CHANIN: Then you're set.

MRS. PELESHUCK: Your next steps.

MR. LENOWICZ: Thank you.

MRS. PELESHUCK: It's a lot, you have a lot of envelopes.

MR. LENOWICZ: Okay.

MR. KANE: Have a good evening.

MR. LENOWICZ: Thank you.

MC DONALD'S (12-43)

MR. KANE: McDonald's, proposed demo and rebuild of McDonald's. Variances needed are for the front yard setback and the existing non-conformance of lot width. The other variances needed are for multiple signs. Good evening, sir, name, address, speak loud enough for the young lady over there to hear you.

MR. BOHLER: My name is Brad Bohler, Bohler Engineering, address is 35 Technology Drive, Warren, New Jersey.

MR. KANE: You're on.

MR. BOHLER: Alright, so tonight we're presenting the knockdown and rebuild of our McDonald's. I'm sure the board's aware of the current location, near the five points location, it's approximately 3,800 square foot existing restaurant. It's got a fairly big play place out in front of the property along 32, single drive-thru in the back and parking surrounding the building. The proposal is to knock down the building and rebuild it with one of the new McDonald's buildings, no more mansard roof, straight up and down, it's got a nice look to it, add the double drive-thru which is a new proposal for McDonald's. What it does is increases the efficiency of the drive-thru allows people to be processed more quickly so there's not as long of a line when you're waiting for orders and basically re-orienting the site so that it allows for parking to be on the non-drive-thru side and the rear and then also eliminating the play place to add a recirculation lane into the site. And basically with that layout we have a number of variances that we're asking for. The first one is the setback to the Route 32 that's being adjusted, if you go directly from the building it's about 44 feet and under the proposed conditions it ends up being 30 or 35 feet. I will just point out that the play place is at the property line, there's a big fence there and the materials up front seem kind of, acts like a faux setback, it's fairly close even though it's not part of the building.

MR. KANE: How close is the existing building now?

MR. BOHLER: It's 44 feet, play place goes so you have 30 foot with the play place in the area. The other one that we have it's not sign related is the lot width which is an existing condition, it doesn't meet the

requirement for 150 feet approximately for that variance. That's not changing, it's currently that way as well.

MR. KANE: Okay, nothing's changing?

MR. BOHLER: Next one is with regard to a sign, I'll show a generic rendering, this is not the actual building material, this is showing where the signs are, where each one is. So on the proposal this actually shows all the signs that we're requesting for the project. The first variance will be number of signs we talked about in the previous application that we're taking down the other signs so we're currently we have three signs existing, one on each side and one in the front and then there's four signs, I'm sorry, seven signs proposed, two of the signs are these welcome signs right here, they're above the door, they're not internally illuminated, just a piece of silver metal that basically directs the customers to go to those doors. Then there's a total of five signs, two of them are the McDonald's up in the front and one is the drive-thru sign and then there's three of these M logos which go around the building. So there's one on the drive-thru side, non-drive-thru side and the front of the building as well so that gives you seven total. So that the variance would be, I think it's one for the, we have two signs if I read the code correctly, one for the front, one for the second entrance, one on the side. And you'd have five additional signs, two which are kind of directional signs but we left them as wall signs cause they're on the building, two welcome signs. The other variance is for the width of the word McDonald's, it's about 18 feet long and the code requires 10 feet, those are for the two signs up front. The following variance is for the height of the arch logo, the code requires two and a half feet, we're proposing three and a half feet.

MR. KANE: At public hearing if you could just approximate the distances from the road for those signs for us?

MR. BOHLER: Yes.

MR. SCHEIBLE: I fail to see that, we're looking at the top picture that's from 32?

MR. BOHLER: It's going northbound so as you come up passed the vacant property to the south of the site.

MR. SCHEIBLE: The question I'm getting at the playground area is that being eliminated?

MR. BOHLER: Yes.

MR. SCHEIBLE: That's being eliminated?

MR. BOHLER: Yes.

MR. SCHEIBLE: Okay, that answers that question.

MR. BOHLER: Hopefully, that's a good thing.

MR. SCHEIBLE: I think so, I was always nervous about that playground area being close to 32.

MR. BOHLER: Yeah, it is very close. Last variance I identified was number of freestanding signs, we currently have one that we're going to leave in place, the road sign's going to stay in place but we took the menu board and the pre-sell menu board as number of freestanding signs so we currently have one menu board and one pre-sell board. We're going to add another menu board because there's going to be two order points for the double drive-thru so because we're removing those and replacing them and removing the pre-sell we're asking for the variances.

MR. KANE: Those are for the menu boards?

MRS. PELESHUCK: If you remember Sonic, that's why we did it.

MR. CHANIN: If I understood what you just said, two are in place now and you're replacing number three?

MR. BOHLER: Yes.

MR. SCHEIBLE: So the building will be demolished?

MR. BOHLER: Yes.

MR. SCHEIBLE: So you're going to be working from the ground up?

MR. BOHLER: Complete knockdown and rebuild.

MR. BEDETTI: How large will the building be?

MR. BOHLER: Three and a half feet, so it's about 14 square feet, I'm not sure if you've seen, they did similar buildings like this in Middletown and Kingston, they just did a remodel in Lloyd, remodels are a little different, this is a brand new building but they have similar sign packages. I wanted to show you this so you can see how the scale of the signs look in comparison to the building.

MR. SCHEIBLE: I seen them down south, this is like a national thing that you're creating?

MR. BOHLER: Yes.

MR. SCHEIBLE: I seen them down south looking exactly like this.

MR. BOHLER: Yeah, this is the new look for McDonald's.

MR. KANE: Signs illuminated?

MR. BOHLER: Yes, all internally illuminated, yes.

MR. KANE: Further questions from the board?

MR. SCHEIBLE: Just one question, go back to the playground area, is that going to be part of your parking space or not or is that the parking space is still going to be on the sides?

MR. BOHLER: Yes, if you remember from the existing conditions the parking is on the, it's on all three sides, we're going to instead of having that playground area we're going to have a lane that allows people to go back into the site if they need to.

MR. KANE: So it's a kind of turnaround in the front if they need to circle back through? So there will be no exterior playground?

MR. BOHLER: And no internal playground either.

MR. SCHEIBLE: Square footage, how much larger will this be?

MR. BOHLER: A little under 100 square feet larger. It does include the outdoor play area, I know that's kind of seasonal but in the summertime there's seats out there and families can stay out there so it's not

really and it's not part of the building square footage per se.

MR. KANE: Further questions?

MR. BEDETTI: Let me just catch that where the playground was in front that's actually going to be a drive lane now, is that correct?

MR. BOHLER: Yes, with some landscaping on both sides.

MR. BEDETTI: Okay, I got it.

MR. KANE: Okay, I'll accept a motion.

MR. HAMEL: I'll make a motion that we schedule a public hearing for McDonald's for the variances as requested for the signage and the setbacks.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MRS. PELESHUCK: Those are your next steps, I gave you a deadline on or before that date it would be January 14.

MR. KANE: The 14th is our next meeting.

## MORNING POND FLORIST (12-42)

MR. KANE: Morning Pond Florist, Anthony Scully. Proposed two additional 4' x 8' canvas wall signs. A variance is needed for two additional wall signs located at 2648 Route 32 in a C zone. Come on up, Anthony. So you went back to the drawing board?

MR. SCULLY: Yes, good evening everyone, last meeting was helpful in helping me understand the process and I'd like to publicly recognize Nicole who's been very helpful in leading me through this. I would like to introduce Michael Quan, Michael is the proprietor of Morning Pond Florist and I have asked him to be here this evening. And if I could just recap, we took down the signs when we found they were in violation and Mr. Quan spoke to me and said his business dropped off by 20 percent, obviously, that's a concern. So they came to the building department and spoke to Nicole, she told me what we could do to request a waiver of this. So Mr. Quan has already made up two canvas signs before we knew all of the kind of regulations related to this process, he has 4 x 8 canvas signs with grommets. In speaking to Nicole, I felt that we needed to have an alternative that better met the regulations of the code. So I think you have before you the proposal from Leaf Signs and once again, you know, Mr. Quan it would be at his expense and I can't impose that on him but, you know, at least there's an alternative out there and as businessman he could decide, perhaps I should let him speak for himself. Do you gentlemen need a copy of this?

MRS. PELESHUCK: It's in the back, they have it right there where your hand is, Mr. Scheible, flip it one page back.

MR. SCULLY: And I realize that we're actually asking for two variances because it's two signs in addition to the one sign that's already there that says Morning Pond Florist, is that correct?

MR. CHANIN: Well, the board could issue one variance covering the two additional signs but a second variance might be needed, they're not in compliance with the dimensions.

MR. SCULLY: Right now they are not, I actually showed Leaf Signs the dimensions and he mistakenly put four by eight, I know the dimensions are three and a half by 12

so I think we would be willing to go three and a half by eight that was changed in November just last month.

MR. BEDETTI: I'd like to comment, to discuss with the chairman in fact this is going to come up more often, the code actually does say not to exceed three and a half feet by 12 feet or 42 square feet so that sounds like it's a little bit of a modification from what we've had before.

MR. KANE: It's a bigger modification.

MR. BEDETTI: Not only that, there's an option.

MR. KANE: An option with the square footage.

MR. BEDETTI: Right, exactly, and I wanted to bring it up cause I know we're going to face this over and over again.

MR. KANE: I just looked at her when she said three and a half by 12.

MR. SCULLY: The population is aging, we need bigger signs to see.

MR. SCHEIBLE: Are you insinuating something?

MR. SCULLY: No, not I.

MR. KANE: So square footage basically it fits in and what we're going to have to do is it's two additional signs and--

MR. SCHEIBLE: What will be the structure of the signs, what type of material?

MRS. PELESHUCK: On the next page it's aluminum.

MR. SCHEIBLE: Because in here you're talking about canvas again.

MR. SCULLY: Right, that's our preference cause it's the least expensive option and he's already had the signs.

MR. KANE: Not going to happen.

MR. SCULLY: Then we have to go to Plan B.

MRS. PELESHUCK: You guys told him to come back with the alternate.

MR. KANE: Especially with wind storms going through that nobody thinks happens happens.

MR. SCULLY: I reviewed some composite materials with Nicole, she told me what was acceptable, she actually showed it to somebody who works in the building department and then, you know, I went to leave and I said this kind of plastic board that's not acceptable, even though people are commonly using it in many places.

MR. KANE: We're going around and cleaning that up currently, trust me.

MR. SCULLY: But as I said, I don't know if you want to ask any questions of Mr. Quan because he's the owner of the florist shop.

MR. KANE: The signs of the canvas, it's a similar sign that's been out there for how many years has those canvas signs been up?

MR. QUAN: I think around 10 years.

MR. KANE: Any complaints formally or informally about the signs?

MR. QUAN: There were at times I think informally I was not owner at the time, just there three years only.

MR. KANE: Anything during your, any complaints during the time that you've been there?

MR. QUAN: No.

MR. KANE: Are the signs going up, are they going to be illuminated in any way?

MR. SCULLY: No, I don't believe they would be illuminated.

MR. SCHEIBLE: No lights shining on them?

MR. SCULLY: No.

MR. BEDETTI: Let me get this straight now there will be no canvas signs, is that correct?

MR. KANE: No, they're going with aluminum signs, there's no way canvas is going up, we just cleared that up.

MR. BEDETTI: I think he just improved his position by a hundred percent.

MR. KANE: Absolutely, like I said, those signs have been up 10 years and with a minimum amount and nothing in the last three years, no illumination, I think they're going to be safer the way they are. Nicole, you'll make the changes that we need into the draft? I'll accept a motion if there's no further questions.

MR. SCHEIBLE: I'd like to make a motion to have the Morning Pond Florist represented by Anthony Scully be put to a public hearing.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MRS. PELESHUCK: Here are your next steps on or before the 31st you have to come in, okay?

MR. SCULLY: When is the date of the public hearing?

MR. KANE: It will be the 14th as long as you get all of that done in time because the public notices have to be out 10 days before the meeting.

MR. SCULLY: Okay, and my understanding is that Mr. Quan wanted to use those canvas signs he could use them inside his windows as a temporary?

MR. SCHEIBLE: As a temporary.

MR. SCULLY: Until he's able to afford this.

MR. KANE: Inside temporary, no problem.

MR. SCULLY: I hope I'm not being out of place, suppose he decides that he can't afford to do both signs at once, can he do one sign?

MR. KANE: You have one year to complete.

MR. SCULLY: He has a one year window, thank you very much. Have a great evening.

MR. QUAN: Thank you.

December 10, 2012

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TABLED FROM PREVIOUS MEETING:

BETTER HOMES & GARDENS RAND REALTY (12-38)

MR. KANE: Tabled public meeting, Better Homes & Gardens is not here. We'll hold that.

PUBLIC HEARINGS:

MUIZA TAHIR (12-40)

MR. KANE: Public hearings. Tonight's first public hearing Muiza Tahir. A variance for an existing two car garage does not meet the minimum 30 foot side yard setback. A variance of 22 feet 6 inches is required at 607 Shore Drive in an R-4 zone. Anyone in the audience for this particular hearing? When the time comes, we'll need you to ask your questions, make your statements. State your name, address and loud enough for the young lady to hear you, okay? So just like the preliminary meeting, tell us exactly what you want to do.

MR. TAHIR: We're at 607 Shore Drive. We have a two car garage and one corner does not meet the setback requirements for the back yard so we filed for the variance.

MR. KANE: Let the public records show that your house on your lot is cattycornered towards the property line?

MR. TAHIR: Yes.

MR. KANE: If it was straight in you wouldn't be here.

MR. TAHIR: Right.

MR. KANE: You have a metal carport that's in the front of the house that has been taken away?

MR. TAHIR: Yes.

MR. KANE: And has the, how long has the garage itself been up?

MR. TAHIR: We're not sure when it was built. Our understanding is that the previous owner said it used to be a party room and he converted that into a two car garage and he purchased the property in 1993.

MR. KANE: When did you purchase?

MR. TAHIR: We purchased it in 2007 so I think it's been there for that period.

MR. KANE: To your knowledge, was there cutting down of any substantial trees and vegetation in the building of

the garage?

MR. TAHIR: No.

MR. KANE: Creating water hazards or runoffs?

MR. TAHIR: No.

MR. KANE: Any easements going through where the garage is?

MR. TAHIR: No.

MR. KANE: Have there been any complaints formally or informally about the garage during your stay?

MR. TAHIR: No.

MR. KANE: Alright, back to the board, further questions? We can open it up to the public, come on up, ask what you need to ask.

MS. COLLOTTI EDELSON: My name is Maureen Coletti Edelson, 1 Short Road, New Windsor, which is the property directly abutting the property line in question and I do have a map of the area. May I distribute that? I want to thank the zoning board for the opportunity to speak this evening and as I mentioned, my property is the one that abuts Mr. Tahir's, he's at the bottom, Beaver Dam Lake is to the left or east and I'm sorry west and Short Road which is an extension of Walnut Avenue is to the east or to the right. We understand he's seeking a variance, we like Mr. Tahir very much, he's a good neighbor and we respect him as a family man but nevertheless, we object to the proposed variance on three grounds which are generally respect for zoning laws and property lines, also second that we have had a constant history of encroachment on my property from the south and the north and then stream changes that were effected on the east side of his property and my property over the years at Short Road and then the environmental impact of a structure so close to Beaver Dam Lake and so close to our property line that could become something else. As you hear, it started as one thing and then became something more substantial. First my family has owned the parcel at 1 Short Road since 1949 and my mom and dad worked hard from their immigrant roots to have a small parcel in the fresh air outside of New York City on what's known as Beaver Dam

Lake. My father, George, built our house between 1949 and then 1950 and when he died at the age of 43 in 1963 he actually was hammering a floor in so this was a, we're very deeply attached to this property. During those early building years 1950 there were no zoning requirements but all the neighbors here kept track of their property lines, they put trees on the property lines, everybody respected that very carefully and we never had an issue with that until about 12 years ago, maybe 14 years ago with the new generations moving in, the turnover and so forth. I have noticed a very strong disregard for property lines and property rights and ownership and setbacks and here are a few examples and I have to say none of these relate to Mr. Tahir directly, these are all existing episodes of what seems to be going on in this area, which is without respect for zoning, for property lines and so forth. And that's my concern that things will get out of hand here with something so close to my property line and so close to the lake. The prior owner of Mr. Tahir's property line built a shed for his mobile home, I heard it already mentioned and we think the corner of the shed was actually on our property. Now I just glanced, and my mother was in her last years of my life and said mom, do you think that's on our property? Don't say anything, forget about it. Well, my mother was alive in her last years, that same prior owner of Mr. Tahir's property actually placed his fencing five feet onto my property and this of course my mother was in ownership at that time, she was about 77 years old and living alone there as a widow and I came up one time and I saw this clearly on our property and I have to tell you I know the lines really well, I grew up running around all my summers for 17 years, when I saw five feet on the property line, I thought this is either an extreme error or an intentional taking of 10 percent, our property is very narrow, it's 50 feet wide so five feet on is a 10 percent encroachment. And then when I asked the gentleman to move his fence back to the property line, he did so immediately and with no comment. There was no discussion, no challenge, nothing to say that he had made an error, he just moved it right back. And that's shown, those two first items are shown in numbers one and number two on the map that you have. Number one center left on the property line and number two demonstrates the dotted line that shows the fence. Number three is Mr. Tahir's garage. When he listed his property for sale on the internet and a neighbor mentioned it to me and I looked at the very attractive listing, I noticed that it spoke about a two car garage

and having lived and occupied this house or visited in my adult life and now being up on a weekly basis, I said where did the garage come from? You know, there had not been a garage there for most of my life, I just couldn't fathom why there's a garage there and why it is not near the road, why it's near the lake instead. So that's number three on Mr. Tahir's property. On the east side of Mr. Tahir's property near Short Road that same prior owner had dammed up a free flowing stream in order to create a parking area at the top of the property and you'll see that's number four that area number four the water would come down from the slope, come down a stream that I played in as a child, a very natural stream but he dammed it up in order to create parking area at the top of the road there. And from what I understand, that's actually an offense in New York State with running water, I don't know if that's true but that's what I was told. That damming up of that stream that he did has really created a great deal of running and flood trouble, not only for my property but from what I understand for Mr. Tahir's property and the property to the north of us, the Pusnacova's (phonetic) property so that's number four. As other examples of the very challenging disregard for property rights and zoning and property lines that's going on in the area on the north side of my property this is number five when that property turned over young man named Richard, this is about 2005 or so 2004 or 5 took down the summer cabin that was there which all these cabins had been built in the '40s and '50s, '50s I guess and he set out to build a lovely home, very nice holiday home but he just took two trees down on my property, just, he just took them down and we came up and our trees were gone. And, you know, again, we were flabbergasted that there would be such a disregard for property rights and property and just an encroachment like that and that's numb five in this area right here, it shows approximately where the two trees were. He then erected a large cabana at the waterfront and I'm not sure what the zoning laws are on waterfront construction but to me in an environmentally sensitive area, it just doesn't appear right to start new construction at the waterfront. And so when I asked the building department if it was legal to put such a structure there they replied that it was not but they would not ask him to take it down. And he then placed his dock only five feet away from our property line. I understand the distance setback is 10 feet and I asked him to move it and he did not move it. And then when he sold to the current owners on that Pusnacova side of

the property in 2009, new owners installed very lovely masonry walls, this is item number eight, by the road, her lovely masonry walls, pillars and terracing along the entire front, it's very, very attractive but again, with the disregard for property lines and rights around one of the trees on my side of the property line. And when we asked the new owners to take that masonry work back quite frankly it caused a very unpleasant confrontation and I actually thought my husband and the gentleman were going to engage in fisticuffs at that moment. We encouraged them to bring their survey out and review it with our survey and meet and walk the property line. We came back to do that, we established a meeting, they said we don't need to do that, we agree that we have built our masonry on your property line and within a few months they took that back and took that masonry back from around the tree that was on our parcel. They still had not taken back part of the wall that extends onto our property line, even though I put a stake there and asked them to take it off of our property line. And then finally on December 1st, I sent an e-mail and asked them to have it removed by December 31 and I stopped by the house today and noticed that it's down today and they have finally taken that down. On the third and final point, the impact to the environment is a concern because once the horse is out of the barn with such a close proximity to a property line and so close to the lake, it's easy for me to imagine given the examples that you've heard and that this item has already transferred from being a party room to a garage that the garage might suddenly gain a second story or gain a bathroom and be too extreme for an environmentally sensitive area such as the lakefront and too massive for being so close to my property line with this reduced setback. So while we can all understand the enthusiasm that our neighbors would want to have to gain the variance and to have this wonderful setting with the garage there comes a point where someone in my position really needs to say enough and be concerned about the future of building and construction in this area and hold fast to the current zoning requirements, especially in this specific example of a request for 73 percent of the setback requirement to be abrogated. So I do want to say thank you very much for hearing me so patiently and again, I do have the most respect for Mr. Tahir and his family and wish him the best in his endeavors and thank you again for the opportunity to present my side.

MR. KANE: Quick question please, if you would, right

in here this is the neighbor's house right here, is that your home right there? Short Road is right here, there's the property line coming down, this is where the metal carport was that's no longer there right and that would be the home?

MS. EDELSON: That's correct.

MR. KANE: Okay. And you understand when from the property line and the same amount of distance where that is from that property line too, just as a point.

MS. EDELSON: My understanding is that when this was built there was no zoning requirement and we're grandfathered, is that correct?

MR. KANE: I understand.

MS. EDELSON: Absolutely and in the same case I would feel, would understand that point.

MR. KANE: Thank you. Anybody else for this particular hearing? We'll close the public portion of the hearing and ask Nicole how many mailings we had.

MRS. PELESHUCK: On the 27th day of November, 2012, I mailed out 62 envelopes and received no written response back.

MR. KANE: We'll open it back up to the board for further questions at this point.

MR. BEDETTI: That location of that house that you just pointed out, what's the distance from the property line to the edge of that house, is that on the, doesn't seem to be on this one here?

MRS. PELESHUCK: Edge of which house?

MR. BEDETTI: The neighbor's house.

MRS. PELESHUCK: It doesn't say, it's not there.

MR. KANE: Doesn't say.

MRS. PELESHUCK: It's their survey.

MR. BEDETTI: Was it your house, do you know what the distance is from the property line to the closest point on your house?

MRS. PELESHUCK: Seven and a half feet.

MS. EDELSON: Roughly somewhere about that but it's a fully constructed room, that's been a fully completed room and structure part of the house since 1950, not open for any amendments.

MR. BEDETTI: Okay, I guess I maybe have two other questions. Relative to the property line, there was some dispute relative to the fence and whether has that property line been established recently by some surveying or I mean there's no, you know, exactly where the property line is?

MS. EDELSON: Exactly, it felt like the Real Housewives of Beaver Dam Lake because of all this I've had the survey redone twice.

MR. KANE: So there's no issue where the property line is right now?

MR. TAHIR: No.

MR. BEDETTI: Is there any dispute with regard to the actual dimension between his garage, that you agree that that's probably seven and a half feet, is there any dispute for the distance between what he indicates on the map here that the edge of his garage to the closest point on that property line is seven and a half feet so that's not in dispute then I'm assuming?

MS. EDELSON: I have not measured that, I'm relying on your documents.

MR. BEDETTI: It's not right on your property line, it's certainly not on your property line.

MS. EDELSON: Absolutely not.

MR. BEDETTI: So I'm going to assume at this point in time for lack of anything else that the seven and a half feet is legitimate that he has on the map?

MR. KANE: That's what he's legally stating.

MR. BEDETTI: Just wanted to make sure there was no dispute between what he's saying and what she said.

MR. KANE: Absolutely. Further questions?

MR. BEDETTI: The age of that garage again you said was what, seven years?

MR. TAHIR: We're not sure.

MR. BEDETTI: So it's there for at least seven years?

MR. KANE: '93 is when--

MR. TAHIR: At least it goes back to '93, I don't know how far back, maybe Maureen would know, I don't know when you saw it the first time.

MR. KANE: Public portion is closed.

MR. TAHIR: Sorry.

MR. KANE: Any further questions? If not, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant a variance for an existing two car garage located at 607 Shore Drive in an R-4 zone for the variance requested, for the variance that's requested.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MRS. PELESHUCK: Here are your next steps and you're all done. I'll call you.

MR. TAHIR: Okay, thank you.

DOUGLAS BROWN (12-44)

MR. KANE: Tonight's next public hearing Douglas Brown, proposed rear covered deck will not meet the minimum side and rear yard setbacks. The side yard needs a variance of 17 feet and rear yard needs a 12 foot variance located at 229 Clarkview Road in an R-4 zone.

MR. BROWN: My name is Doug Brown, my wife and I own a home 29 Clarkview and two weeks ago I guess we had the variance go through what we were applying for. When I went back after letters were sent out and where do we stand?

MR. KANE: Very similar, you took down an existing deck that was there?

MR. BROWN: Yes.

MR. KANE: In the building of that deck to your knowledge was there any removal of substantial amount of vegetation or trees?

MR. BROWN: No.

MR. KANE: Create water hazards or runoffs?

MR. BROWN: No.

MR. KANE: Any easements going through that particular area where the deck is?

MR. BROWN: No.

MR. KANE: When that deck was up, were there any complaints formally or informally about the deck?

MR. BROWN: No.

MR. KANE: And it's obvious from the pictures that you have a glass sliding door there where we're approximating a four foot drop down so it's necessary to have some form of deck there for safety reasons?

MR. BROWN: Yes, we're buying houses that the people might open up a permit and we're coming in on the back end, whether the banks and the closing or titles weren't doing their jobs, I think things are cleaning up but we're kind of stuck in that position. All I

went to do is build a roof and found out that nothing was ever permitted and closed so I'm pretty much starting from scratch.

MR. KANE: Approximately, how long was the original deck up?

MR. BROWN: Late '70s, '77.

MR. KANE: No complaints formally or informally about the deck?

MR. BROWN: No.

MR. KANE: The deck itself is similar in size and nature to other decks that are in your neighborhood?

MR. BROWN: Yes, it's a 20 by 12, nothing crazy, no crazy heights, no crazy shapes, just an extension off the back of our small house.

MR. KANE: I'll open it up to the board, any questions at this point? If not then I'll open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll bring it back to Nicole and ask how many mailings we had.

MRS. PELESHUCK: On the 27th day of November 2012, I mailed out 52 addressed envelopes and received no written response back.

MR. KANE: Okay, back to the board, further questions gentlemen? None, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant Douglas Brown the variances as requested.

MR. BEDETTI: I'll second that.

MR. HAMEL: Of side setback of 17 feet and the rear yardage of 12 feet.

MR. BEDETTI: I'll second it again.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MR. BROWN: This is open for a year?

MR. KANE: You have one year to get it complete.

MRS. PELESHUCK: To get a permit.

MR. KANE: Then how many to finish the permit?

MRS. PELESHUCK: We could renew the permit, the permit is 18 months.

MR. KANE: We've had people that come in that miss it.

MRS. PELESHUCK: You can always renew the permit, you cannot renew the variance.

MR. BROWN: Very good, thank you.

## SCHEIBLE LOT LINE (12-45)

MR. KANE: Tonight's next public hearing Scheible lot line referred from planning board for the area variance as needed for a two lot lot line change. The first lot is conforming, the second lot will not conform and will need a variance for the minimum lot area for net and gross, required front yard setback and developmental coverage, located at see 28 and 532 MacNary Lane in an R-4 zone.

MR. SCHEIBLE: I'd like to recuse myself at the moment.

(Whereupon, Mr. Scheible stepped down from the board for this application only.)

MR. SHAW: Good evening, it's been a while. For the record, Greg Shaw from Shaw Engineering representing Henry and Helga Scheible tonight on this application. As your chairman said, it's a two lot parcel on MacNary Lane in an R-4 zone. Before I get into the specifics of this application, I'd just like to go down memory road and point out two things to this board which does affect this application. At one time these two lots were compliant with zoning and since that point in time there they were affected by two changes in the New Windsor Zoning Ordinance, one was during the administration of George Meyers where he stepped in and changed all the zones to a minimum of 40,000 square feet for each and every lot. So what that did was made all the lots 15,000, 20,000 square feet compliant but they were existing not, excuse me, they were non-compliant but at that time they met the zoning ordinance. If you wanted to move a lot line around, you had to come before this board. So that's one of the reasons why we're here. The other is that they introduced into the zoning ordinance a definition of the term net lot area, whereupon now that we have established 40,000 square feet per lot, we decided to start deducting from that gross lot area areas of right-of-ways, easements, DEC wetlands, areas you couldn't build on in order to satisfy the minimum area for the net lot area. So with that, we started out with the two lots of Henry and Helga Scheible, as I said, that were on MacNary Lane. If you take a look at the zoning ordinance, you will see that prior to the lot line change, there was three items of the bulk tables that were non-compliant, minimum gross lot area, net lot area and also the required rear yard depth.

After we moved the lot areas around and the purpose of moving the lot areas around was that this is the residence of Mr. Scheible, Henry and Helga, and they wanted to take the burden of the land and with that the taxes on them and so that would free up this house and have their daughter take title to the house and also to relieve their daughter of the burden of the taxes. It's just that simple. Okay, so with that, it now comes down that there's a deficiency in the smaller lot and the deficiency goes back to the two points I made, the 40,000 square foot for the lot area, the net lot area, once you deduct out this relatively large easement area, okay, which comes through here because of the utility easement and also we're just a little bit over on development coverage, we're allowed a maximum of 25 percent and we're at 26.1. So what we're asking for are three things tonight. We're asking for a variance for the gross lot area, minimum net lot area, the developmental coverage and I don't know how the board handles a non-conforming condition which is the same prior to and after whether you recognize it or do not recognize it in your decision but I'll leave that up to you. Was I complete enough, Mr. Chairman?

MR. KANE: Yes. The macadam driveway going through is a driveway used by both homes and there's a right-of-way?

MR. SCHEIBLE: I have a right-of-way to reach my house through that macadam driveway.

MR. SHAW: And what we have done too on this subdivision plan we have cleaned up a lot of items where there was just right-of-ways that existed just by prescription they have been defined where you've had services for water and sewer. Again, my prescription, they now have been defined so if they're ever to be conveyed out it should be a clean title at this point.

MR. KANE: No septic, no wells?

MR. SHAW: Correct.

MR. KANE: Further questions from the board right now? At this point, let me open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the hearing and ask Nicole how many mailings we had.

MRS. PELESHUCK: On the 27th day of November 2012, I

mailed out 36 addressed envelopes and I received no written response back.

MR. KANE: Does the board have any further questions?

MR. KANE: So the variance requested for minimum lot area gross would be 9,554, the minimum lot area net would be 13,782, developmental coverage would be 1.1 percent and the required front yard which we might as well put in there, make sure everything's on record and cleared up is 19 feet with a proposed 21, required is 40, that way, we have the numbers in the record. Any further questions from the board?

MR. BEDETTI: I'm assuming there's really no way that you could move that lot line to make the two of them compliant? I mean, you started out with 1.74 acres and finish up with two lots of an acre a piece, I mean would require--

MR. SHAW: That's a very good point. What happens is we have this very wide easement through here which is New Windsor's for water, sewer your and also gas. We also have this small easement through here which is for services. As you can see, if we take this, this is the small lot, now after you moved the lot lines around as you start taking it and moving it to try and increase it as you said we're going to be right on top of this easement very quickly and at this point there's nothing more to be gained because we deduct it anyway, okay.

MR. BEDETTI: Exactly, so your answer to my question was no, there isn't anything that you can do?

MR. KANE: That makes sense.

MR. SHAW: Yes.

MR. BEDETTI: Got it.

MR. KANE: Further questions from the board? Okay, Mr. Scheible, I have to offer you this, as you know when the board, we have, Pat isn't here and you're recused, it takes three votes to get an approval. So the option of us voting now or waiting until Pat gets here and have four guys voting on it, I know we always try to be fair and leave that up to you.

MR. SCHEIBLE: I'm under pressure with that project right now, that's why I'm going to take the gamble I'll

call it, I'm under pressure with my daughter buying it right now so far as trying to get in before the end of the year, this year.

MR. KANE: Okay, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the variances for minimum lot area, the gross lot area, front yard variance for 19 feet and developmental coverage at 1.1 percent at 528, 532 MacNary Lane in an R-4 zone for Mr. Henry Scheible.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE	ABSTAIN
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MR. SHAW: Thank you good.

DISCOUNT DOLLAR MARKET (12-37)

MR. KANE: Next public hearing is Discount Dollar Market, Matthew Edampadth. Three existing facade signs are not permitted. A variance for two additional facade signs is required. First sign is Discount, the word Discount, 1.5 foot by 10 foot. The second facade sign is the word Dollar 1.5 foot by eight foot and the third is Market, which is 1.5 foot by 7.5 feet located at 176 Windsor Highway in an R-4 zone. Good evening, name, address?

MR. EDAMPADTH: Matthew Edampadth, 176 Windsor Highway, New Windsor.

MR. KANE: Tell us what you want to do.

MR. EDAMPADTH: Yeah, I make the signs because this is what we can do there because there's five stores that I lease and each store has separate boxes.

MR. KANE: Basically, you're using up five stores in the front of this and the spaces are defined so that you can't get one sign, one facade sign up there in length?

MR. EDAMPADTH: Yes.

MR. KANE: So to get around that and you're putting up three signs which are significantly smaller than the requirement which is 3.5 feet by 12 foot.

MR. BEDETTI: Yes.

MR. KANE: Correct, learned that fast. And you're 1.5 by 8 on two of them, 1.5 by 10, 1.5 by 8, 1.5 by 7 so they're significantly smaller, they're internally lit, non-flashing?

MR. EDAMPADTH: Non-flashing.

MR. KANE: And it's suffice to say if each of the stores were owned separately each of them would be allowed to have their own sign in those spaces?

MR. EDAMPADTH: Yes.

MR. KANE: Okay, further questions from the board right now?

MR. SCHEIBLE: You also own, I mean are operating?

MR. KANE: He has another two spaces.

MR. SCHEIBLE: Just wanted to verify that again.

MR. KANE: At this point, I'll open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Nicole how many mailings we had.

MRS. PELESHUCK: On the 27th day of November 2012, I mailed out 50 addressed envelopes and received no written response.

MR. KANE: Any further questions from the board? If not, I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant this Discount Dollar Market the variances as requested for two additional signs.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MRS. PELESHUCK: You're all sell. Here's the next steps. I'll call you when your permit is ready.

MR. EDAMPADTH: Okay.

MRS. PELESHUCK: Have a good night.

MR. EDAMPADTH: Thank you.

TABLED FROM PREVIOUS MEETING:

BETTER HOMES & GARDENS RAND REALTY (12-38)

MR. KANE: The last hearing tonight is tabled from the previous meeting, Better Homes & Gardens Rand Realty, Brian O'Connor. Proposed freestanding sign will exceed the maximum number permitted freestanding signs. The property already has a freestanding sign, however, Better Homes & Gardens would like their own four foot by four foot sign located at 819 Little Britain Road in a PO zone. The public portion of this meeting was already held at our last meeting. This was tabled so that we could check into the minutes of the planning board to see if they in any way had addressed further signs on that property. There was no such mention in those minutes so at this point, we bring it back to the board for any further questions at this point.

MR. BEDETTI: I'm good. Well, what was determined in the, we tabled it to go back?

MR. KANE: For the minutes, there was nothing.

MR. BEDETTI: There was nothing in it?

MRS. PELESHUCK: They just talked about the dumpster and how he wanted to utilize the dumpster also as the freestanding sign.

MR. BEDETTI: Okay, thank you.

MR. KANE: No further questions, no further statements?

MR. CONNOR: No.

MR. KANE: I'll accept a motion.

MR. HAMEL: I'll make a motion that we grant Better Homes & Gardens the variances as requested.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. SCHEIBLE	NO
MR. HAMEL	NO
MR. BEDETTI	NO
MR. KANE	NO

MR. CONNOR: Okay, thank you very much.

MR. KANE: Have a good evening.

MR. CONNOR: You too.

MR. KANE: Motion to adjourn?

MR. HAMEL: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. HAMEL	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer