



TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS

Regular Session

Date: JULY 25, 2005

AGENDA

7:30 p.m. – Roll Call

Motion to accept minutes of JUNE 13, 2005 meeting as written.

PRELIMINARY MEETINGS:

1. **ARCHIBALD AUSTIN (05-42)** Request for 6 ft. fence to project closer to the street than the principal building on a corner lot at 2 Karen Ct. in an R-1 Zone **(51-2-18)**

PUBLIC HEARINGS:

2. **AMERADA HESS CORP. (05-36)** Request for:
7 ft. Rear Yard Setback and;
30 square foot variance for façade sign and;
4 parking spaces and;
All at corner of Union Avenue & Windsor Highway in an NC Zone **(12-2-1)**
3. **LANDMASTER HARP, LLC (05-34)** Request for 8.5 ft. building height variance on proposed Harp Estates Condominium Project at Unit Numbers 14, 20, 26, 32, 40, 58, 66, 72, 78 & 84 on Iron Forge Lane and Units 23 & 29 on Covington Road all in R-5 Zone **(65-2-1.1, 1.2 & 3)**
4. **FRANCES AUGUST (05-35)** Request for 2 ft. Side Yard Setback and; 1.5 ft. Total Side Yard Setback for proposed addition and; INTERPRETATION for Single Family Home with two kitchens; all at 30 Continental Drive in an R-4 Zone **(45-1-27)**

July 25, 2005

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JULY 25, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
 LEN MC DONALD
 MICHAEL REIS
 KATHLEEN LOCEY
 KIMBERLY GANN
 HOWARD BROWN

ALSO PRESENT: MICHAEL BABCOCK
 BUILDING INSPECTOR

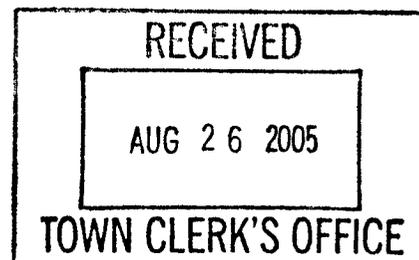
 ANDREW KRIEGER, ESQ.
 ZONING BOARD ATTORNEY

 MYRA MASON
 ZONING BOARD SECRETARY

ABSENT: STEPHEN RIVERA

REGULAR MEETING

MR. KANE: I'd like to call the July 25th, 2005 Town of New Windsor
Zoning Board of Appeals meeting to order ...



PRELIMINARY MEETINGS:

ARCHIBALD AUSTIN (05-42)

Mr. Austin appeared before the board for this proposal.

MR. KANE: Mr. Austin, please come forward please. In New Windsor what we do is we have a preliminary meeting so that we can get an idea of what you want to do and that you have all the proper information for us. So, exactly what we do here tonight we repeat at the Public Hearing. So what I would like you to do is speak up loudly as we have microphones and tell us what you want to do sir.

MR. AUSTIN: My fence in question is approximately 20 feet off the house and I would like to extend that fence approximately 32 feet so I can accommodate an aboveground pool. That will put the fence 110 feet from one street is Wagner on the north east side and on the south side also 110 feet from that side of the house which is 2 Karen Court. So each side of the fence will be at least 110 feet from the street.

MR. KANE: And with that the fences won't block any view of traffic coming to that corner.

MR. AUSTIN: Not at all sir.

MR. KANE: Ok, can you provide for the Public Hearing, pictures of the intersection showing the home.

MR. AUSTIN: One of the pictures projects from the fence...

MR. KANE: Would that be this picture here sir.

MR. AUSTIN: Yes, there is another one with the flowers.

MR. KANE: This one here.

MR. AUSTIN: Yes, that projects way out.

MR. KANE: Ok, what I'd like you to do is just from the corner looking in.

MR. AUSTIN: Ok. The opposite.

MR. KANE: Yes, better view for me.

MR. AUSTIN: Ok. Next meeting?

MR. KANE: Yes. Is the fence similar in nature to other fences in your neighborhood.

MR. AUSTIN: There are a few.

MR. KANE: Ok.

MR. KREIGER: And they are similar to that, right?

MR. AUSTIN: Yes Sir.

MR. KANE: And you are looking more for safety for the pool and your children with going the six-foot instead of the four foot.

MR. AUSTIN: Exactly.

MR. KANE: Does anyone have any questions.

MR. REIS: Does this fence go over any easements or right-of-ways.

MR. AUSTIN: No sir. It is 110 feet from the street on each side of the fence.

MR. KRIEGER: Did you put the fence up?

MR. AUSTIN: Well, I started the process... then had to stop.

MR. KRIEGER: Well, I mean it was done while you were there right?

MR. AUSTIN: The current fence yes.

MR. KRIEGER: Did you remove any trees or substantial vegetation.

MR. AUSTIN: No I did not sir.

MR. KANE: Create any water hazards with the building of it.

MR. AUSTIN: No Sir.

MR. KANE: Michael, if he wasn't a corner lot, he would still be here because of the six foot height of the fence, yes?

MR. BABCOCK: No.

MR. KANE: No, he wouldn't be here it is just because he is a corner lot and the fence is basically in the front of the house because he has two front yards.

MR. BABCOCK: Yes, that is correct.

MR. KANE: Thank you.

MR. REIS: I'd like to make a motion that we set up Mr. Archibald Austin for a public hearing for his request for a six-foot fence to project closer to the street than the principal building on a corner lot at 2 Karen Court in an R-1 Zone.

MS. GANN: Second it.

ROLL CALL:

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE
MR. KANE:	AYE

MR. KANE: Just follow the directions right on there and it will tell you what to do and all we need is that one other picture from you please.

PUBLIC HEARINGS:

AMERADA HESS CORP. (05-36)

MR. KANE: Tonight's first Public Hearing is Amerada Hess Corporation request for a seven foot rear yard setback, a thirty square foot variance for façade sign and four parking spaces, all at the corner of Union Avenue and Windsor Highway in an NC Zone.

MR. ALEXANDER: For the record I'm Neil Alexander of Cuddy and Sader here on behalf of Amerada Hess Corporation. To my right is Richard Harper of Morris Associates, the engineers, and also here is a representative of Hess Oil. We did quite a lengthy presentation last month, I don't know if anyone is here for this if they want to move to the front row.

MR. KANE: We will find out soon.

MR. ALEXANDER: Ok, fair enough. Just to recap, basically Hess is looking to redevelop the existing DB Mart Site. There is three variances needed. One has to do with the rear of the property. Essentially, it's a 50 ft. requirement here in order to fit the building on the site while closing one of the existing access points on Rt. 69 and for a few other geometry of the site reasons we wind up being approximately 8 ft. where 15 ft. is required in order to ameliorate that situation, we offered to face all four sides of the building so the rear will be finished no differently than if it were a front or a side. We've also offered to put a fencing along the rear property line in that vicinity and address the vegetative issues which there is really not much room to go on our property but, we are more than open to discuss. The second variance is the fact that we have parking spaces for 20. The code goes through a couple of different things I'll just bring up is that the code treats this as straight retail from the standpoint of analyzing the parking situation so we need one space for every 150 square feet, which comes out to 24. We actually broke down the Hess facility into the part that is storing of materials vs. retail area vs. the pumping area. We'd actually comply if you broke it out that way but that's not how your code does it I just give that for a frame of reference. We also brought as a frame of reference or justification the fact of the matter is that we have twelve parking spaces at our pumping stations and our experience after talking to regional managers and our traffic engineers out of New Jersey is that there are a lot of people who are pumpers who become shoppers and they don't move their car from being pumped into a parking space in order to shop. They do it from their pumping space and they finish pumping and I think this goes to everyone's own personal experience so I won't belabor that. The third aspect, and it's in your original package, is the signage. Hess' sign is not a square it is on a tilt so when you box it as your code requires you have a lot of dead space for the sign so instead of drawing it as a box where your code requires 55 square feet, if you drew it elliptically around the Hess, and the wayto give you a frame of reference as to why we justify it drops down to 32 square feet from 55 and the code requires 25 so we submit to you tonight as major as first blush when you look at the numbers on a

piece of paper. Those are the three variances that are being required. We've met on several occasions before this with your Town Engineer and Planners who've made the recommendation which Orange County concurred with in closing the first ingress/egress point from the intersection on County Rt. 69. This really should ameliorate to the fullest extent the stacking problem that existed in this area when the DB Mart was open because you've moved the intersection point from 47 feet to about 120 ft. roughly, the exact number is in our submission 118 ft. is in our submission. That's the essence of the proposal.

MR. REIS: Is there a minimum requirement on the planning board or from your point of view to cover the area between the pump stations and the parking lots of the store.

MR. ALEXANDER: If I'm correct, you're talking about this area.

MR. REIS: That's correct.

MR. ALEXANDER: I believe, I'm going to have Mr. Harper come up but I believe it's 24 feet is the..... Richard is that the design criteria from interaction standpoint it's Board Member Reis is that correct.

MR. REIS: Yes

MR. ALEXANDER: Between when a car pulls out here and a car goes in here and not have them .

MR. REIS: The reason for my question is to get some relief for the building being so close to the side or rear yard. That is the reason why I'm asking.

MR. HARPER: Oh, actually we've got more like 30 feet between there and that was based on Hess' experience for what works better for the traffic circulation there from safety standpoint. I think the minimum is 24 ft.

MR. KANE: And then you also have parking spaces right in the front which take up if I remember correctly about 17 feet each space coming out.

MR. HARPER: Well, they're actually 20 ft and we have, you know the actual maneuver space that's required behind that for the spaces would be 24 ft. we've actually made it more, 30 I think it is.

MR. REIS: Was it the recent request from the Board, it's just my point of view here, we haven't discussed this to reduce that space to give us a little bit more rear or side yard in the back of the building.

MR. ALEXANDER: I think what comes in is you start, I'll mention again, I'm not the traffic expert, you start moving this here and you have problems getting the ingress

and egress and getting circulation around. You don't have enough movement to go there and the I guess the question you have to balance is if you start tightening this down in order to benefit this, what conflicts you create in here for the sake of, you know, we told the Planning Board and I don't know if Mr. Sarinsky is here or not, but, if he's the one who's concerned, we definitely offered and are willing to plant along his property line on his property even if he'd give us the right to do that, plantings in addition to the fence and finishing the building. I mean we don't have a problem with that, I'm just concerned about creating a conflict here that's vehicular vs. the esthetic conflict here that we could probably ameliorate with 8 – 10 ft. tall pines, you know to some extent.

MR. HARPER: And I might add that all the stations that I've seen in our office, Morris Associates, is between 30 and 32 feet here. So I just take it that that is experience...

MR. KRIEGER: Would you say the separation between the pumps and the main building of 30 feet or 32 feet is what you depicted as consistent with the industry standard.

MR. HARPER: I would.

MR. KRIEGER: And it's to promote traffic flow.

MR. HARPER: Yeah, you got that typical entrance and exit of the parking space but then you got the people looping around from the pumping spaces too.

MR. REIS: So what was established is basically the norm for the industry.

MR. HARPER: That's correct.

MR. KRIEGER: Mike, this is subject to Planning Board Review.

MR. BABCOCK: Yes.

MR. KRIEGER: So all the questions for this Board are all the questions of screening and so forth, you can either put, if you're inclined to grant the application when it comes time for that to happen, you can either put them in as conditions or you can allow the Planning Board to handle it, there will be a Planning Board review after that, so it's your choice.

MR. BABCOCK: They have attended a Planning Board meeting, that's how they are here, they got referred from the Planning Board but, they will be going back to the Planning Board for further review once they are successful in getting their variances.

MR. KRIEGER: Ok, with respect to the sign on the front, it would, for the record because this picture won't be in there, the proposed sign will not project any higher than the roofline on the front side of the building.

MR. ALEXANDER: No, it will not.

MR. KANE: Any other questions at this moment. Then I will open it up to the public. I need you to state your name and address please, speak clearly and try not to be repetitive if there is more than one person speaking. Thank you.

MR. DAVE SARINSKY: My name is Dave Sarinsky. I live on 298 Union Avenue which is to the east of bordering the Hess Mart's new property and I have some comments I'd like to make. I'm here because I'm opposed to Hess' variance request. I live at 298 Union Avenue which borders the east side of Hess' property line. I also own the car dealership which borders the north side of Hess' property. I'm a life-long resident of New Windsor. In 1972 my father and myself built our business on Windsor Highway and we were required to follow the setback laws which we did. In 1985 I was required to follow the setback laws when I built my home and I did. I have a letter from a local realtor, which I have a copy for everyone, who came to assess the impact this variance request would have on my home. Her opinion was that Hess being so close to the property line would have a very negative impact on the residential value of my home. She listed seven reasons to explain her opinion. My biggest concerns are the negative impacts as to the value of my residential home, the privacy loss I will incur and the noise and the garbage pollution. Seven feet, although it doesn't sound much, makes a very big difference. Hess is building a bigger facility than the existing facility and they are installing more gas pumps than the existing station. I don't have a problem with the new facility as long as it is not at my expense. If you look at the plans for the new station, they plan on putting concrete sidewalks right up to the property line so they have room to make deliveries in the back of the building. The sidewalks go right to the very edge of the property. My daughter's bedrooms are on that side of the house. This is a 24 hour, 7 day per week business with deliveries being made all hours of the day or night. These plans show no consideration for the residential neighbors, that being me. Would any of you approve this if it was next to your house. What I request is to keep the current 15-foot setback in place. This is a commercial business that is open 24 hours, 7 days a week and it borders my existing residential home, I lost my place, I'm sorry. Since this is a commercial business that is open 24 hours, 7 days a week and it borders my existing residential home, Hess should have to put up a fence and a row of trees or shrubbery on their property. Right now there is an existing row of 20 ft. Arbor Videy for the purpose of garbage, noise and privacy. Since this is new construction and Hess wants to build a bigger facility than the present one, the responsibility should fall on Hess to protect the current environment of the neighborhood. Instead, they are trying to build the biggest facility they can fit on too small of a piece of property. This is clearly the case of a big corporation caring more about how much money they can make instead of caring about the environment around them. There is no reason Hess can't build a smaller facility that fits on this size piece of property they have instead of infringing

on other people's rights. I hope you agree with me and deny Hess' request for this very aggressive variance request. Now, I kind of read a statement because I was afraid I was going to leave out some of the facts but, the bottom line is I'm their only neighbor. Nobody else cared because I'm the only guy who's rights they are infringing upon. This is my home. This is where my family has been brought up and this is where I'm planning on staying for the next 30 years. I don't mind. They're entitled to use their property for the purpose they bought it for, but, their facility is too big. They have more gas pumps and a bigger building than they had before. Why can't they stay the size they were or make it bigger but make it fit the piece of property they have. This really infringes upon my rights, I've always followed the rules of New Windsor, I've always done what I'm supposed to do. Why should they be an exception just so they can make more money. They're a corporation, they don't live in New Windsor, they don't have their family in New Windsor, they don't vote in New Windsor. They're here to make money, that's all they care about. I've been here all my life and I plan on being here the rest of my life. I think this is a very unfair situation. They want to put trees up. They're being big sports but, they want to put it on my property. Why should it be on my property, I'm not causing the problem. What really upsets me is if you look at the back of the building, they have all kinds of doors where they are going to make deliveries 24 hours a day. That means there's going to be big trucks, there's going to be traffic in and out of those back doors all day long and all night long. I'm in a residential home. My property is residential. It's built properly and it's in the right place. This is a very unfair situation to me and I feel it's way out of line. Let them build a smaller building. Let them make the building 7 feet less wide, then we won't have the problems. I have no problems with their sites. I want to be a good neighbor but, I don't want my rights infringed upon here and that's what they're doing. I have a copy of what I just said because I didn't read it very eloquently, and I have a copy of the letter from the realtor that I'd like everyone to look at for the record. I'm not asking for anymore than I deserve here. I've always considered myself a model citizen. This is, as far as I'm concerned, is way out of line. Seven feet doesn't sound a lot, but, when you're in your back yard and your kids are in the pool and you got to look at the back of this building and I hope there's going to be bathrooms inside. Is there bathrooms inside for the public?

MR. ALEXANDER: Mr. Chairman do you want to get back and forth, do you want me to respond.

MR. KANE: I'm going to have you respond to this in total.

MR. SARINSKY: Ok, because right now the facility that is there right now has no bathrooms to the public and my kids are out in the back yard and there's people that's walking behind this place ten times a day going to the bathroom and now they're pushing this further back to me. And the last point, which isn't Hess' fault, but, this land is polluted and this land has been polluted for ten years. I was talking to the DEC on Friday and the levels are still above where they're supposed to be and the original owners were supposed to clean it up and in the middle of the clean up they went bankrupt. When they went bankrupt, they left me holding the bag. I have a piece of

polluted property that's supposed to be cleaned up because of the gas station and there's nobody there helping me and now we want to put a bigger gas station in there. When they did the clean up that they did, they never cleaned up under the existing building. Now when they knock down this existing building, we know there's a big mess under there. We saw it when they were cleaning up the original thing, but, they didn't want to disturb it. So now we're going to have this nightmare all over again and now you're asking me to have them put this 7 ft. from my property line. There's fumes literally coming in my house because we had an indoor air testing, there's MTB and PCB fumes coming in my house that nobody wants to do anything about and now they want to put a bigger gas station closer to my home. I don't think there's anybody here that wouldn't agree with me that they feel the same way that I feel and if this goes through it puts me in a position that I have to something with my house, I can't live there. All's I'm asking for is 7 ft. I want them to follow the rules like I followed the rules. I built my house on the proper setbacks and I built my business. Just because they are a big corporation, that doesn't give them the right to break the rules and they're not breaking the rules, they're asking for a variance but, I'm the guy that's got to shoulder the burden of all this and it's not fair. And I'm the guy who's been here all my life and I'm the guy who's going to be here the rest of my life supporting the community. So that's my piece of mind and I hope everybody understands my position.

MR. KANE: Thank you. Would you like to address his comments.

MR. ALEXANDER: There's a few of them... um... and I mean to be respectful and so forth but Mr. Sarinsky basically owns two pieces of property and to my understanding and I don't want to give you my back but.... inaudible. This is where his home is, I don't know exactly where it is on the footprint. This is a strip, my best guess, I didn't look at title, but, he has left a strip here that approximately when it nets down here probably 20 odd feet and probably closer to 40 or 50 feet here.

MR. SARINSKY: 45. 45 on the bottom and it's 30 on the top and that's a right-of-way into the back piece of the property.

MR. ALEXANDER: Right, so the 7 ft., I just want to contextualize the 7 ft. It is 7 ft. from here. There's a strip here that goes to his business.

MR. SARINSKY: No, there's a separate acre in the back that the strip goes to.

MR. ALEXANDER: Oh it goes to this one, OK.

MR. SARINSKY: There's a residential piece of property in the back of my home that that's the right-of-way to the residential piece of property. So you want me to put trees....

MR. ALEXANDER: Please wait... I don't mean to be rude. Just give me 3 seconds.

MR. KANE: We are not going to have a debate, it's not going to happen.

MR. ALEXANDER: The point I'm trying to make Mr. Chairman and members of the Board is this, um, and I don't have all the facts here but what I can say when I look at this paper and I'll leave it ... there's a fair amount of property here that's a buffer as well in addition to this. His home is somewhere up in this, even if you put it right here, it's still 50 ft. at that point and I think that's an important point to consider when you talk about the variances and the impact to the community vs. the benefit to the applicant and statutory test. It's not that the home is right here. As far as the past history with DB Mart I'm mean we're successors of interest to it only we didn't do anything about that you know to the extent that anyone... that's just sort of past history. I can't really comment on that and what happened and why that happened. We bought something out of bankruptcy and we're trying to rebuild and redo the site. But, I think it's really important to keep in mind that this is an issue plus it's not we're just saying sort of live with it, we've offered to finish all four sides, we've offered to provide a fence and Richard correct me if I'm wrong, these are going to be bathrooms. This is not for delivery, is this for delivery and storage.

MR. HARPER: No.

MR. ALEXANDER: These are just the public bathrooms the separate entrances. Deliveries are going to come through the front door.

MR. KANE: So, there are no deliveries going through the back.

MR. ALEXANDER: No.

MR. KANE: There will be none going through the back.

MR. ALEXANDER: Correct. So unless you all have more, those are just some of the highlights I'd like to point out.

MR. KANE: What about the clean up from when the building is torn down.

MR. ALEXANDER: I have not been retained to do the environmental work, but, I can guaranty you one thing is that they are going to comply with DEC standards. I mean if there is they're going to have no choice but to comply with DEC standards given an installation and whatever the cleanup requirements are.

MR. HARPER: I just want to add, the restrooms are actually inside. There are electrical boxes and, I'm not sure what else is on the back of the building but, the restrooms are inside.

MR. KANE: Are there any entrances for the building in the back of the building.

MR. HARPER: I don't think so. I think Andy Lautenbacher who is the representative for Hess.

MR. ALEXANDER: I've just been corrected. Just so the record's clear, there's all deliveries and restrooms are entered through the front. This is an emergency exit given the nature of the building that goes out this way. There are other facilities operation related tasks that are addressed out here.

MR. KANE: What would they be.

MR. ALEXANDER: That's what I've got to find out. Its electrical boxes?

MR. LAUTENBACH: Electrical room.

MR. ALEXANDER: An electrical room.

MR. KANE: Any other members of the public that wish to speak. Ok, at this point I'll close the public portion of the hearing and bring it back to the Board.

MR. REIS: Richard, your position here is...

MR. HARPER: I work for Morris Associates and we've worked on the site plan.

MR. REIS: Did you do the design of the building and the site plan?

MR. HARPER: Not the building, we get that from Hess.

MR. REIS: Ok. I'm going to offer a possible solution to the problem all right, to satisfy the neighbor and perhaps satisfy Hess' need for certain amount of square foot to make money. Would it be possible to decrease, according to your plan it says 51 ft. from the front to the back of the building, make that 7 ft. less so you don't have to have that variance and take it out on an L to the north end to accommodate this minimum square foot, would that be a possible solution.

MR. HARPER: I'd like for the Hess Representative maybe to address that if he might. You know from my standpoint of not having anything to do with the building except for just site plan you know, it looks like that would work.

MR. PAGANO: Anthony Pagano, I'm with Amerada Hess Corporation, The buildings are pre-fab so it comes in sections and it's the standard size 35 X 14.

MR. BABCOCK: Mr. Chairman could I just say one thing just to correct some numbering here. Right now they're showing a 20 ft. long parking space and it's only required to be 19 ft. So that's one foot. They are also showing approximately 30 ft. back out space and it's only required to be 25 ft. So that's 5 ft. What Mike was

saying before as far as the thing, I didn't want to interrupt the public hearing. So that's 6 feet right there.

MR. ALEXANDER: Could you do the first one again just so I could write it down.

MR. BABCOCK: The parking space requirement in the Town of New Windsor is 9 ft. X 19 ft and you are showing 20 ft. The backout space on 90 degree parking and it's right on your plan here is 25 ft. I know 30 is more comfortable, I've been in these stations myself, but, it's not required.

MR. ALEXANDER: I guess what it comes down to and those are all fair points. It goes back to our initial interaction with Board Member Reis is from a code compliance standpoint we could probably it sounds like we could pick up 6 ft. Now the question is is the Board balancing, are you better off seeing plantings that occur or are you better off in having a tight constraint. When you have the strip in between to begin with next to the house and Mr. Sarinsky did testify that his house complies with the setbacks in a residential zone. So it's pretty far back to that building or do you want to take the risks of not having the benefits of not having the extra space for a vehicular standpoint. And that's a balance the Board needs to consider.

MR. KANE: The balance is that we should still have some kind of fencing and shrubbery back there and pick up the 6 ft. and look at a 1 ft. variance. Or, you know, pick that 6 ft. up or put it to the Board and allow it to be Aye or Nay.

MULTIPLE CONVERSATION.....

MR. ALEXANDER: That's exactly the subject we're discussing, imagine if you had two SUV's so that's the 19 and you have 19 ft. coming this way. You don't have a lot of space for maneuvering here. Plus it's also..

MR. KANE: I'll tell you, I'm not real comfortable with making the decision based on that somebody has an oversized SUV.

MR. ALEXANDER: Mr. Chairman I'm talking it out, I'm not trying to push for one way or another. You got a very busy intersection here. I just think it militates in favor of a design that's more vehicular based than necessarily worrying as much about the residential component that is somewhat farther away. I think, there's a reason why Orange County pushed on us to close this, I mean it was stacking up around here. That tells you the volume of traffic that goes by here and is going to go through this site. I just think you are better off being able to have smooth sailing in here than having a jam-up in here and have it jam up...

MR. KANE: To be argumentative, we can take both by making the building smaller. I'm looking for a compromise.

MR. ALEXANDER: I hear you loud and clear, I'm not authorized to do that right now. I'm going to take that back to my client. I hear how strongly it's been stated. It's crystal clear.

MR. KANE: Would you like at this point, since I think you're getting a good feeling of what's going on with the building in the back, to basically table the motion at this point to discuss it with your clients and then come back.

MR. ALEXANDER: Definitely, I'd like to just check one thing with your attorney just to put him on the spot. On the hearing issue, if we decrease down our variance since it's a lesser variance do we need to rehear? I mean we're responding to.

MR. KRIEGER: No, if it's tabled now then you are still under the umbrella of the original application.

MR. ALEXANDER: That's what we're more than willing to do. What I would like to flush out is just to confirm that there are no concerns that we haven't addressed in regard to the other two variances.

MR. KANE: I have no problem with the sign at all. I have no problem.

MS. LOCEY: I would like you also to explore the possibility of changing the shape of that building. Because if it were longer and less wide, that might also mitigate the problem.

MR. KANE: That's exactly what we're talking about.

MR. KRIEGER: I do have one question with respect to the parking just so I could put it in the record. Even though the parking is less than what's required by the code, you're proposing to produce as much or more parking than existed on this site previously.

MR. ALEXANDER: Oh yes, definitely more.

MR. KRIEGER: It's less in violation than it was.

MR. ALEXANDER: Agreed. I think unfortunately, in the prefabricated worldinaudible... I don't think we are going to have any flexibility on the shape of the building. Obviously, we can call the manufacturer to see if they have something, I think we are going to have to do something more in line with tightening things up. I think that's just the reality.

MR. KANE: I Think you have to. I want to see that space...

MR. ALEXANDER: But, I just didn't want you to feel when we come back with whatever we tightened up that we didn't take into consideration, I can tell you when we talk to people we report to, what they're going to say is this is a prefab unit, it's pre-priced, you know so forth and so on. If the manufacturer makes something like that we're going to slide that right in. If not, well we'll probably come back and it's not that we didn't take credence to what you're saying it just that's going to be harder to accomplish than taking what's been approved internally by the corporation.

MR. REIS: In due respect to your principals and superiors, these are prefab units, they are, I don't want to plan engineer here, but, they can make them as big or as small as they want. I think it's important that you don't ask them but tell them that this is what's going to be required and they will produce it for you rather than ask them.

MR. ALEXANDER: I will make that voice very clearly heard.

MR. KANE: Please.

MR. BABCOCK: Mr. Chairman, if the building is cut down 7 ft., they no longer need a parking variance.

MR. REIS: We want to give you the spaces there, make it work for yourself.

MR. ALEXANDER: Right, and then I was going to say is it comes back to meeting the volume of the business to make it work so this store doesn't wind up like the DB Mart and just sitting there across from the brand new town houses is not being productive, so it is a balance between all that and we hear you loud and clear.

MR. KANE: So do I have your permission to table.

MR. ALEXANDER: Yes you do.

MR. KANE: Michael would you make a motion to that effect. Before you do that let me just, Mr. Sarinsky, do you understand what we are doing? Ok Mike.

MR. REIS: I make a motion that we table the public hearing for Amerada Hess Corporation, do we need to specify a date or.

MR. KRIEGER: Well, you should or otherwise, you could leave it open, but, from a legal standpoint, its better if you have a date.

MR. KANE: I'd rather not leave it open-ended.

MR. ALEXANDER: 30 days? What's your schedule.

MR. KANE: We do two meetings a month.

MR. ALEXANDER: What's your second meeting in August, because I'm not going to be able to turn it around in two weeks, I know that.

MR. KANE: That's fine. It's the second and fourth. August 22nd.

MS. LOCEY: I'll second the motion.

ROLL CALL:

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE
MR. KANE	AYE

LANDMASTER HARP, LLC. (05-34)

MR. KANE: Next Public Hearing Landmaster Harp LLC request for 8.5 ft. building height variance on proposed Harp Estates Condominium Project at Unit Numbers 14, 20, 26, 32, 40, 58, 66, 72, 78 & 84 on Iron Forge Lane and Units 23 & 29 on Covington Road all in R-5 Zone.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering Properties representing Landmaster Harp LLC. We were here before you last month regarding a height variance request for the lots the Chairman just mentioned, I won't repeat them all, or the units I should say, the buildings. Those units are the interior units on the loop road on this Iron Forge Road and Covington Road. It consists of these buildings here, here and here. This area here marked in pink are the ones that are built into the hill and stepping up to grade and based on a recent interpretation of the height requirements, these would require a height variance of 8.5 ft. for the work on these buildings. Just to give everybody a location, NYS Rt. 300 at the railroad crossing directly to the south of the site. The big wetland area on your left as you are going north, the site is on the right there is a little gravel road that was built a few years ago to drill a well there. The architecture of the building is consistent with a lot of the architecture as far as height is concerned with other buildings that are being built in the town. Whether this is by practice of PUD similar garage under two stories of living space. Older units here that are built in the town.... inaudible... these have higher roof lines, steeper pitched roofs, a little more dramatic effect architecturally, some gable ends. Stone façade at the lower level to kind of minimize the height and breaks up the side.

MR. KANE: If I remember the preliminary correctly, the difference in the height on the inner buildings is not going to be discernable to the from the street.

MR. WINGLOVITZ: Correct. Yet the all buildings will be the interior and all will be visible from the other units. The exterior units will kind of shield these buildings. The only really visible spot is from Rt. 300.

MR. KANE: Any Board Members have any questions at this point. Then I'll open it up to the public and ask if there's anybody here from the public for this particular hearing.

MS. JEAN ANTONELLI: I just have a question. Where is this located.

MR. BABCOCK: Just past 300 on Rt. 300. Just past Continental Manor on Rt. 300. Between Continental Manor and Stewarts. You'll see where the two gravel driveways went in. That's where it is.

MS. ANTONELLI: How many units.

MR. WINGLOVITZ: 124 I believe.

MS. ANTONELLI: Thank you.

MR. KANE: Ok. Seeing as there is no one else we will close the public portion of the hearing and bring it back to the Board. Anybody have any further questions.

MR. REIS: What would be the remedy to not have to have this variance. Is there anyway to remedy the situation.

MR. WINGLOVITZ: Yeah, what we would end up doing is down below which would require more rock blasting. We'd have to put these – these would be deeper units instead of higher units. So by stepping them up into the slope and making them higher we decrease the earth work and potential of blasting minimizing the environmental impact by doing it this way as opposed to making them deeper. The other thing you could do is you could flatten the roof lines up to minimize the variance but I think architecturally it won't look as nice. It will be a much nicer building with the higher roof line, a little more rich looking..

MR. REIS: Will the higher roof line impact the outer perimeter homes and their view.

MR. WINGLOVITZ: Here. No they are downhill units. This is the highest point of the site so they're below their views would be out this way.

MR. KANE: Any other questions. I'll accept a motion.

MS. LOCEY: I'll offer a motion to grant the requested variance for the application of Landmaster Harp, LLC for their requested 8.5 ft. building height variance on proposed Harp Estates Condominium Project at Unit Numbers 14, 20, 26, 32, 40, 58, 66, 72, 78 & 84 on Iron Forge Lane and Units 23 & 29 on Covington Road all in R-5 Zone.

MR. REIS: I'll second it.

ROLL CALL:

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE
MR. KANE	AYE

FRANCIS AUGUST (05-35)

MR. KANE: Tonight's last public hearing is Francis August Request for 2 ft. Side Yard Setback and; 1.5 ft. Total Side Yard Setback for proposed addition and; INTERPRETATION for Single Family Home with two kitchens; all at 30 Continental Drive. Repeat exactly what we did in the preliminary meeting again, tell us what you want to do.

MS. AUGUST: We would like to build an extension off of our home using the two-car garage and then out from the two-car garage.

MR. KANE: And the purpose for the extension.

MS. AUGUST: Is to bring my in-laws who are up there in age and not healthy.

MR. KANE: Adding the addition, will you be cutting down any trees or substantial vegetation.

MS. AUGUST: No.

MR. KANE: Creating any water hazards or runoff.

MS. AUGUST: No.

MR. KANE: Any easements in the area where the addition is going to be.

MS. AUGUST: No.

MR. KANE: With the addition added to the house, will the house still be similar to size and nature to other homes that are in your neighborhood.

MS. AUGUST: Yes.

MR. KANE: The addition of a second kitchen will everything be on one electric.

MS. AUGUST: Yes.

MR. KANE: Coming in. One gas meter coming in so there is no possibility or no intended use as a second apartment.

MS. AUGUST: No.

MR. KRIEGER: In other words, this is a single-family home and if the variance were allowed, it would remain a single-family home, it will always be a single-family home and you would market it as a single-family home.

MR. KANE: Leave it to the lawyer. Let me open it up to the public and ask if anybody is here for this particular hearing. No, we will close the public portion, bring it back to the Board and ask Myra how many mailings we had.

MS. MASON: On July 14th I mailed out 48 envelopes and had no responses.

MR. KANE: Ok, I have no further questions myself, any other questions from the board. I would like a two-step, a granting of the variances and then an interpretation for the kitchen.

MS. GANN: I'll offer a motion that we grant the application for Francis August's request for a 2 ft. side yard setback and a 1.5 ft. total side yard setback for proposed addition. and secondly for Francis August to grant the application for an interpretation for a Single-Family Home with two kitchens all at 30 Continental Drive in an R-4 Zone.

MR. REIS: Second it.

ROLL CALL:

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. KANE: I need to do one thing that I skipped in the beginning. Can I have a motion to accept the minutes from the meeting of June 13th, 2005.

MR. REIS: So be it.

MS. LOCEY: I'll second it.

ROLL CALL:

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE
MR. KANE	AYE

Respectfully submitted,


 Myra Mason (from taped meeting)