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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JULY 10, 2006

MEMBERS PRESENT: KIMBERLY GANN, ACTING CHAIRMAN
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE, CHAIRMAN
KATHLEEN LOCEY

REGULAR_MEETING

MS. GANN: I'd like to call to order the July 10, 2006
meeting of the New Windsor Planning Board.

MINUTES_OF_JUNE_26,_2006

MS. GANNS: Motion to accept the minutes of June 26,
2006.

MR. LUNDSTROM: So moved.

MR. TORPEY: Second it.

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ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

PRELIMINARY_MEETINGS:

LUIS_CASTILLO_(06-41)

MS. GANN: Preliminary meetings, just so everyone knows, we have preliminary meetings as well as public hearings so what you will do is you'll come for your preliminary hearing this evening, you'll come on up, you'll tell us why you're here and give us your name and address loud enough for Fran to hear you, tell us why you're here again. And then for some of you you might be here for a public hearing, so this would be the last time that you visit the Zoning Board of Appeals. So again, with the public hearing, come on up, tell us what you're looking to do all over again just like you did with the preliminary and then we'll take things from there.

So the first order of business is Luis Castillo. Request for 12 ft. rear yard setback for proposed wood deck at 280 Garden Street.

Mr. Luis Castillo appeared before the board for this proposal.

MS. GANN: Tell us why you're here.

MR. CASTILLO: Well, we wish to replace an existing deck 10 x 10 and replace it with a 12, I'm sorry, 16 x 20 deck and I was informed that I was not, the rules have changed and I need to have some I think it's 50 feet I think from the property line and the variance I think is 12 feet.

MS. GANN: Is that why he's here, Mike, tonight?

MR. BABCOCK: Yes, he's actually getting closer to the property line but his application is, paperwork calls for 16 x 22 deck.

MR. CASTILLO: Yes, I'm sorry, yes.

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MR. BABCOCK: Just so the numbers are right, that has nothing to do with the bearing of the 22 foot, just so we're on the same page. He's got a weird shaped lot, Miss Chairman, and looking from the front of Garden Street we're considering the 31.2 feet a side yard and the straight back, there's an angle on the piece of property, we're considering that the rear yard, he's maintaining 38 feet there, the requirements are 50 feet.

MS. GANN: I'm going to ask you some questions that are probably apparent to the pictures but we need to ask them. Will you be taking down any substantial vegetation in the building of the deck?

MR. CASTILLO: I'm sorry?

MS. GANN: Will you be taking down any trees?

MR. CASTILLO: No.

MS. GANN: Will the deck be similar in size to other decks that are in your neighborhood?

MR. CASTILLO: Yes.

MS. GANN: Will you be creating any water hazards?

MR. CASTILLO: No.

MS. GANN: Do you know of any easements that this new deck would go over?

MR. CASTILLO: No, not that I know of.

MS. GANN: Any other questions from the board?

MR. LUNDSTROM: Madam Chairwoman, I have none.

MR. KRIEGER: The deck is adjacent to an exit from the house?

MR. CASTILLO: Yes, actually, it's part of the exit.

MR. KRIEGER: So a person exiting the house if the deck weren't there would probably fall down?

MR. CASTILLO: That's correct.

MR. KRIEGER: So it's a safety issue?

MR. CASTILLO: It's a safety issue.

MS. GANN: And the stairs will be coming down the same way?

MR. CASTILLO: Same way it is right now, correct.

MS. GANN: I don't have anything else.

MR. LUNDSTROM: Madam Chairwoman, I will make a motion that we proceed with the application of Mr. Luis Castillo's request for 12 foot rear yard setback for proposed wood deck at 280 Garden Street in an R-4 zone and we proceed with this to a public hearing.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

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DIANE_BUCKNER_(06-42)

MS. GANN: Request for 16 ft. 6 inch front yard setback and 27 ft. 6 inch front yard setback and a 5 ft. rear yard setback for addition to single family home and interpretation and/or variance for single family home with two kitchens at 16 Cannon Drive on a corner lot.

Ms. Diana Buckner appeared before the board for this proposal.

MS. GANN: Tell us why you're here.

MS. BUCKNER: My name is Diane Buckner, I'm here today because I'd like to put an addition on my home for my mom who's elderly, she's selling her own home and going to move in with me. And I will have an entrance for her from my own dining room area that she can come in and out of if she needs to and I will not be renting this out in the future. If in the event of my mother's death in 10 years or so I still plan to be in the house, I'm just going to open the whole thing up and make a bedroom for myself, it's strictly for her use.

MR. KRIEGER: So it's a single family house?

MS. BUCKNER: Yes.

MR. KRIEGER: Market it as a single family house, will always be a single family house?

MS. BUCKNER: Absolutely will always be a single family house.

MS. GANN: How big is the addition?

MS. BUCKNER: Twenty-two by forty-two, I believe, I can get that.

MS. GANN: Mike, do we have that?

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MR. BABCOCK: Yes, 22'6" x 42.

MS. GANN: And what will the addition encompass?

MS. BUCKNER: I plan to put a new living area for myself in the front, behind that will be a living area and sort of kitchenette for my mother and then behind that a bedroom.

MS. GANN: So this little diagram here is what you're looking to do?

MS. BUCKNER: Yes.

MS. GANN: Do we need pictures of the home?

MS. BUCKNER: I brought them in.

MS. MASON: They're attached to the back. I'm sorry, here they are.

MS. GANN: Will you be taking down any substantial vegetation to create this new addition?

MS. BUCKNER: No.

MS. GANN: Do you know of any easements that it will be going over?

MR. KRIEGER: That's a right of somebody else to use your property.

MS. BUCKNER: No.

MR. KRIEGER: Central Hudson may have an easement for power lines, sometimes the Town wants to put a water line or drainage easement, it's, as I say, it's a right for somebody else to use your property.

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MS. BUCKNER: No.

MR. KRIEGER: Doesn't stop being your property just they have a right to use it.

MS. BUCKNER: No.

MS. GANN: Create any water hazards or runoff?

MS. BUCKNER: No.

MS. GANN: Will the home be similar in size to other homes that are in the area with the new addition?

MS. BUCKNER: Yes.

MS. GANN: Just obviously for our record purposes to be sure that there will be one meter on the home.

MS. BUCKNER: Yes.

MS. GANN: And water, one water meter as well as--

MR. KRIEGER: One heating system.

MS. BUCKNER: Yes, it's all my responsibility.

MS. GANN: I don't have anything else.

MR. LUNDSTROM: Just one question. In the building of this addition for your mom accessways and doorways going to be wide enough for a wheelchair?

MS. BUCKNER: Certainly I can make that so.

MR. LUNDSTROM: That would probably be a good idea, this way when the time comes and they do need a wheelchair at least they can continue.

MR. KRIEGER: If that time comes generally in life the

things we're best prepared for are the things least likely to happen.

MS. BUCKNER: I will make sure of that. Actually, there's only going to be the entrance for my mother and she'll probably have a large entrance like in between the two rooms as you enter there will be a large walkway. I don't think we settled on the internal plans.

MR. LUNDSTROM: Just a word of advice.

MR. KRIEGER: This unit will not be separated by any locking door?

MS. BUCKNER: No.

MR. KRIEGER: That couldn't be made separate?

MS. BUCKNER: No.

MS. GANN: Any other questions?

MR. TORPEY: No.

MS. GANN: I'll accept a motion.

MR. TORPEY: I will make a motion for Diane Buckner request for 16 foot 16 inch front yard setback and 27 foot 6 inch front yard setback and 5 foot rear yard setback for addition to single family home and interpretation and/or variance for single family home with two kitchens on 16 Cannon Drive R-4 zone for public hearing.

MR. LUNDSTROM: I believe that should have been the request for 16 foot 6 inch front yard setback.

MR. TORPEY: There's two front yard setbacks.

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MR. BABCOCK: Yeah, she's on a corner lot.

MR. LUNDSTROM: First he said 16 instead of six inch.

MR. KRIEGER: He read it right, he got them both.

MR. LUNDSTROM: I'll second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

SISTERS_OF_THE_PRESENTATION_(06-43)

Mr. Wayne Decker and Mr. Henry Leyen appeared before the board for this proposal.

MS. GANN: Request for interpretation and/or use variance to operate a day care center at 880 Jackson Avenue.

MR. DECKER: Wayne Decker, AHRC, that stands for Association for the Help of Retarded Citizens. We have operated a pre-school program at this site for over 20 years, other organizations have operated school aged programs at the same site. A recent change in the state law has required us to get a daycare license for our pre-school program and that's because most of our pre-school serves three and four year olds, most three and four year olds go to pre-school for half a day. Because of the needs of our folks who are disabled in various ways, they require a full day program. The state law has changed to say that if a three or four year old is in a full day pre-school program it is to be considered daycare. Nothing about the program that we have operated for 20 years will change. The age of the children will be the same the program will be the same. The only difference is we'd have to have a daycare license, we'd have to do a couple of improvements to the building. We had to upgrade our fire alarm, put an additional, a second handicapped access ramp in and needless to say a whole lot of paperwork for those folks, but that's really the only difference. So the impact to the site would be no additional impacts at all, be exactly the same, the buses coming and going, the transportation would all be the same because it's all the same.

MR. KRIEGER: Now you've said before there were other school aged programs run on the site?

MR. DECKER: There currently are, there are currently

three different programs.

MR. KRIEGER: Were there programs run on the site before you? You've been there 20 years?

MR. LEYENS: Sisters of the Presentation had a school for the nuns and when they came in and went to school there and learn to become a nun and that building was always used for that and then it was, you know, there was a switch-over because they didn't get enough nuns, they started to rent out the space to AHRC and it's been used as a school. That's about it. Henry Leyens, I'm maintenance supervisor for the Sisters of the Presentation, I represent the Sisters of the Presentation.

MR. KRIEGER: As I understand it and Mike will correct me if I'm wrong, the problem is that this is not according to the Town Code an allowed use for this particular zone.

MR. BABCOCK: That's correct.

MR. KRIEGER: If however it has been, you can show that it's been a continuous use of some kind of school, I don't care whether it's your school, that's why I asked those questions since before zoning was enacted and it became effective January 1, '66, I believe.

MR. BABCOCK: That's correct.

MR. KRIEGER: If it's been continuously operated that way since before zoning was enacted then you're in essence grandfathered in, even though your school would not be allowed if it were new, it's not new, that's why the interpretation portion is there. If you failed in the interpretation and you had to go for a use variance that's a very legally speaking state legislature has made that a very difficult thing for people to get. They want, there are many members of the legislature

wanted to make it impossible but they just made it extremely difficult. When this was discussed with me by the Town attorney prior to this, I suggested that it be put on for an interpretation for that reason that I said to you. At the time of the public hearing the burden of proof will be on you to show that it's been continuously used since before '66, that closes out the question, you don't need a use variance then and but that's what you're going to have to do between now and then and what level of proof the board will accept is ultimately up to the members of the board who are sitting that evening but they empowered legally to accept testimony. They sometimes accept the testimony that's sometimes in the past they have accepted it by affidavit testimony which is better so if you have somebody who can say yeah, it's been operated that way continuously, I assume you have available persons whose credibility would be high, so I would suggest that that testimony would probably be accepted but I can't speak for the board as to what's acceptable or not. I can just outline for you the legal requirements that you have to meet.

MS. GANN: Make sense?

MR. DECKER: Absolutely.

MS. GANN: Any other questions from the board? I'll accept a motion.

MR. LUNDSTROM: Madam Chairwoman, I will offer a motion that the application of Sisters of the Presentation be allowed to proceed to a public hearing regarding a request for interpretation and/or use variance to operate a daycare center at 880 Jackson Avenue in an R-1 zone.

MR. TORPEY: Second it.

ROLL CALL

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MR. LUNDSTROM AYE
MR. TORPEY AYE
MS. GANN AYE

MR. KRIEGER: I might say in passing this is an example of why the Zoning Board of New Windsor, this has been true for many, many, many years has two hearings, both a preliminary and a public, by law everything has to be done at a public hearing, but they ask people to come in for a preliminary, not strictly speaking legally required because they want to know if there are any problems or what needs to be done. Your application is a classic example of that because had you not been here at the preliminary, had I not explained to you what your situation was, you might not have been prepared at the time of the public hearing which in many towns is, that's the public hearing, if you fail, you fail, so there's no surprises. The object of this is to avoid surprise both for the applicant and the board.

MR. TORPEY: I will second that motion.

ROLL CALL

MR. LUNDSTROM AYE
MR. TORPEY AYE
MS. GANN AYE

JOHN & TINA PETUTIS (06-44)

MS. GANN: Request 10 ft. rear yard setback for existing pool deck at 238 Summitt Drive.

Mr. John Petutis appeared before the board.

MR. PETUTIS: I'm here tonight in error, I built, I'm John Petutis, 238 Summit Drive, New Windsor, New York. In error I built a pool deck, the deck is 40 feet from the rear property line which the property behind my house is the Temple Hill School which is probably 1,000 feet from the school cause it goes all the way back. It's a 50 foot variance, I want, I'm applying for a ten foot variance so to keep the deck and get it approved, I don't feel it will have any impact on the property behind me or people on the two sides of me, there's plenty of room on both sides.

MS. GANN: Is that why he's here this evening?

MR. BABCOCK: Well, actually, the pool deck is attached to his house deck which makes it part of the setback, the pool deck is only required if it's not attached to be ten feet from the property line, since it's attached, it's required to be 50 feet from the property line and that's what hurts him. He's 40 feet so if he moved it back 30 feet and disconnected it he would be legal so as far as the distance from the property line really isn't an issue, it's the idea that it's attached to the house deck which most people like to have that they want to walk out on the deck and go swimming.

MR. PETUTIS: Deck has self-closing, self-locking.

MS. GANN: When did you build the deck?

MR. PETUTIS: Last year in an error of advice from friends that said you didn't need it but I found out and it's costing me much anguish.

MR. BABCOCK: Well, he will be subject before he gets a building permit or gets a certificate to our inspection of the gates and latches.

MR. KRIEGER: Wasn't built on top of any easements?

MR. PETUTIS: No.

MS. GANN: Did it create any water hazards when you built the deck?

MR. PETUTIS: No.

MS. GANN: Are they similar in size to other decks that are in your neighborhood?

MR. PETUTIS: Yes.

MS. GANN: And this second deck goes right to the pool?

MR. PETUTIS: Right, the pool was here, that picture's taken from this angle so here's the deck, here's the edge of the railing and house deck, here's the edge of the house deck, here's the pool deck, that's this view over here.

MS. GANN: Any other questions from the board?

MR. LUNDSTROM: One question, would it be an easy task or hardship to tear the second deck down that's attaching the pool and move it?

MR. PETUTIS: It probably could not be moved, it would have to be torn down and probably rebuilt.

MR. LUNDSTROM: It would not be an easy task?

MR. BABCOCK: No, it's sitting on all footings so it would be quite the chore and then his pool he wants the

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deck for the pool so he'd have to put it on the outer side just probably wouldn't work.

MR. LUNDSTROM: Just wanted to get it on the record.

MS. GANN: I'll accept a motion.

MR. TORPEY: I will make a motion for John and Tina Petutis for a request for 10 foot rear yard setback for existing pool deck at 238 Summit Drive in an R-4 zone for public hearing.

MR. LUNDSTROM: Second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

DEBORAH_MENKENS_(06-45)

MS. GANN: Request for variance to allow additional horses maintained 35 ft. from property lines at 1 Sean Court.

Ms. Deborah Menkens appeared before the board for this proposal.

MS. MENKENS: I'd like to bring six of my horses home to my back yard.

MR. LUNDSTROM: Where are the horses now?

MS. MENKENS: They're at Risky Business in Wallkill, it's about a 20 minute drive from my home and I'd like to make my life easier by having them in the back yard, it will also save me a big expense, right now, I'm spending \$2,000 a month for board.

MS. GANN: Now what's the legal amount of horses she can have?

MS. MENKENS: Two.

MR. BABCOCK: You're allowed to have two horses not more than six months old which means you can have the third horse for six months, if the one horse had had a baby you could keep it for six months then you'd have to find a home or place to put it. So typically two horses and they must be maintained 75 feet from the property line, they got them wrote up here to maintain them 35 feet, I notice that you have a diagram here shows 25 feet.

MS. MENKENS: I changed it.

MR. BABCOCK: You changed it to 35?

MS. MASON: Yes, changed on the front of your paper.

MR. BABCOCK: But I just want to make sure all the numbers are right. And what's the total number of horses you want?

MS. MENKENS: Six, actually, one's a yearling, one's a pony and the other four are quarter horses.

MS. GANN: How close are your neighbors?

MS. MENKENS: I'm on 4.18 acres, one neighbor's I'd say 30, 40 feet from me, my property's an L shape, the house is on the smaller part of the L, then it goes out and that's the 4 acres.

MR. LUNDSTROM: Mike, just point of clarification, you said currently zoning allows for two horses, we're asking for six horses?

MR. BABCOCK: That's correct, so I guess she's asking for a variance of having four more horses and to maintain them 35 feet from the property line instead of 75 feet. She also backs up to a railroad, an old railroad bed which is 100 and some feet wide of a buffer I would say and then not very far from there is a Central Hudson utility easement which is probably A T & T.

MS. MENKENS: I spoke to them and it's still their easement but there's nothing there.

MR. BABCOCK: Yeah, it's also Central Hudson according to the tax map, according to them, they must have some right-of-way but that's probably some almost 200 feet.

MS. GANN: And your barn can actually fit up to four more horses? I'm sorry, I'm missing numbers here.

MS. MENKENS: I don't have a barn, all I have is the vacant property that you see in the pictures. What I'm

doing is Horizon Structures builds shed barns and we're going to have two shed barns for the horses which will be placed center, in the middle of the 4 acres.

MR. TORPEY: What's the portable barn?

MS. MENKENS: That's the shed, it can be moved.

MS. GANN: So where do you keep the other two right now?

MS. MENKENS: They're still at, they're up at the, in Wallkill at Risky Business, nobody's at the house now.

MR. TORPEY: What do your neighbors say?

MS. MENKENS: They had two questions, they asked me about flies and smell, so I told them that we feed them Simplify, which kills the flies before they're pooped out and the manure we're going to compost and cover, that was their only two concerns.

MS. GANN: Will they be having babies all of them together?

MS. MENKENS: No, no, that's it, two are girls and the others are boys and they're gelded and this is, this is just recreation for my family.

MR. KRIEGER: I was going to ask this isn't a commercial enterprise, this is strictly for--

MS. MENKENS: This is, I have a special needs child who has done hippotherapy (phonetic) and it's done wonders for me, that's how we got involved with the horses so we want to continue that.

MR. LUNDSTROM: For the novice, hippotherapy is?

MS. MENKENS: It's therapy with horses.

MR. BABCOCK: You wouldn't be having like horses shows or horse gatherings?

MS. MENKENS: No, strictly private for our own recreational use.

MR. BABCOCK: You wouldn't be advertising rides?

MS. MENKENS: No.

MR. LUNDSTROM: And it will remain that way in perpetuity?

MS. MENKENS: Till the next 10, 15 years then I'm--

MR. LUNDSTROM: But we're saying it will remain residential, not commercial?

MS. MENKENS: Not commercial whatsoever.

MR. TORPEY: Where else could you ride and be allowed to ride?

MS. MENKENS: My next door neighbors have three horses and they have built a path on his property out to the Stewart buffer zone so I can hook up onto their buffer zones and ride out there cause we're not far, we're half a mile from the buffer zones.

MR. LUNDSTROM: Also significant to that your neighbor also has horses.

MS. MENKENS: Yeah.

MR. BABCOCK: But not three.

MR. TORPEY: They're not going to be jumping the fence back and forth?

MS. MENKENS: We're going to put up a second fence on the property line as a buffer so in case the paddock fence breaks that they have another fence to keep them confined.

MS. GANN: Anything else?

MR. BABCOCK: No, I really think it's, I think this one's going to be up for the public, open it up to the public hearing, I mean, as long as she's not gonna run any commercial operation whatsoever, have horse shows or have riding, whether you have two or six I think the two concerns that her neighbors had probably are the only thing that can, I mean, if you're going to have horses, you're going to have some smell and you're going to have horses, so whether there's two or six, I think it just may compound somewhat but as far as having horses or not having horses I think the Town Code is, I don't think it's a normal thing that most people don't have six horses, I don't know of anybody that has that many horses on a residential piece of property, two and three maybe so this is, you know, quite a request but I think it's, the public hearing will tell.

MS. GANN: Okay.

MR. LUNDSTROM: How many horses do you normally use at any one time?

MS. MENKENS: We all go riding at the same time.

MR. LUNDSTROM: Six members in your family?

MS. MENKENS: Yes.

MR. LUNDSTROM: Therefore that's the six horses that you need?

MS. MENKENS: Yes.

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MS. GANN: I'll accept a motion.

MR. LUNDSTROM: I will offer a motion that we allow the application of Deborah Menkens request for variance to allow additional horses maintained 35 feet from property line at 1 Sean Court in an R-1 zone to allow that to proceed to a public hearing.

MR. TORPEY: Second it.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

PUBLIC_HEARINGS:

BRUCE_HERMAN_(06-38)

MS. GANN: Request for proposed 12 ft. x 16 ft. shed to be installed between the house and street on a corner lot at 5 MacLean Drive.

Mr. Bruce Herman appeared before the board for this proposal.

MS. GANN: Good evening, how are you?

MR. HERMAN: Good.

MS. GANN: Tell us why you're here.

MR. HERMAN: I'm here to get a variance to put the shed on the side of my house, it's difficult for me to walk up and down hills, I just had ankle surgery, so the convenience is really what I'm looking for. Everything slopes in the back of the house everything slopes downhill and everything is completely covered by trees except for the view from the driveway you could see the front and they're all pine trees so it's a year round camouflage.

MS. GANN: This is not existing, you're getting this installed, is that right?

MR. HERMAN: Correct.

MS. GANN: Will you be taking any substantial vegetation down to put up the shed?

MR. HERMAN: Not at all.

MS. GANN: Creating water hazards in putting the shed in that location?

MR. HERMAN: None.

MS. GANN: How close to the house will the shed be?

MR. HERMAN: Thirty feet.

MS. GANN: And Mike the reason why he's here this evening?

MR. BABCOCK: He's closer to the road than the principal building and basically because there's two reasons it's a corner lot is really the reason and he's closer to MacLean Drive on both corner lots than what would be allowed.

MR. LUNDSTROM: Would it be difficult to move the shed further back from the MacLean Road on either side?

MR. HERMAN: Yes, it would, there's a foundation that's there, the shed isn't there yet, the foundation is there and I finally got to the point where I could afford to put the shed in and it's going to put it, my property slopes about 15 feet till I get to the rear of the property, so I'd be back into a situation where I'd be kind of hobbling along just to get to it, everything is pretty level right from my driveway to where the shed, the proposed shed would be in front of the house so I can get to the tractor.

MR. BABCOCK: The further back it drops.

MR. LUNDSTROM: This is MacLean Drive moving it further away from one of them and possibly just a little bit back is that something that cannot be done?

MR. HERMAN: Not without taking down a whole tree line or something like that. Right now I've got 30 feet of trees around everything so that's what's hiding it but I'd have to take down a tree line.

MR. KRIEGER: So relocating you have to take down trees now you don't?

MR. HERMAN: Right, I don't have to do anything.

MR. KRIEGER: Does it interfere with the view of motorists on either roadway?

MR. HERMAN: No, not at all.

MR. TORPEY: Got the tree line first.

MR. KRIEGER: Just putting it in the record.

MS. GANN: Will you be installing electric within the shed?

MR. HERMAN: No.

MS. GANN: What's this platform made of, is it wood?

MR. HERMAN: Treated lumber.

MR. KRIEGER: Will the shed be similar in size and appearance to other sheds in the neighborhood?

MR. HERMAN: Yes.

MS. GANN: Is there anyone here for this public hearing, now would be the time for you to come on up? No? Okay. And I'd like to close the public hearing for Bruce Herman and ask Myra how many mailings we had.

MR. KRIEGER: No, okay, means there's nobody here, right?

MS. GANN: Right.

MS. MASON: On June 28, I mailed out 17 envelopes and had no response.

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MS. GANN: I'll accept a motion.

MR. TORPEY: I'll make a motion for Bruce Herman request for proposed 12 foot by 16 foot shed to be installed between house and street on a corner lot at 5 MacLean Drive in an R-1 zone be approved.

MR. LUNDSTROM: I'll second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

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BOBBY_CHRISTOFORIDIS_(06-34)

No show.

ERROL_FOSCHINI_(06-36)

MS. GANN: Request for 22 ft. rear yard setback for pool with deck attached to the house at 13 Shaker Court.

Ms. LeAnn Foschini appeared before the board for this proposal.

MS. GANN: Just why are you looking to replace the deck again?

MS. FOSCHINI: I guess it's not up to code plus I had a newer deck put on when I had my addition put on and it's that new composite deck, makes my old deck look really bad.

MS. GANN: Will it be similar in size to the deck that you have now?

MS. FOSCHINI: Exact same size.

MS. GANN: Will you be taking, I know I need to ask these questions, but will you be taking substantial vegetation down to build the deck?

MS. FOSCHINI: No.

MS. GANN: Going over any easements?

MS. FOSCHINI: No.

MS. GANN: Creating water hazards?

MS. FOSCHINI: No.

MS. GANN: Will the deck be similar in size to other decks that are in your area?

MS. FOSCHINI: Yes.

MS. GANN: And Mike, she's here because?

MS. FOSCHINI: This deck attaches to the deck that attaches to the house.

MR. BABCOCK: There's no existing deck there now.

MS. FOSCHINI: There's a deck there now, an old deck.

MR. BABCOCK: That got a building permit to be there?

MS. FOSCHINI: Yes. The new one?

MR. BABCOCK: No, the old one.

MS. FOSCHINI: No, we didn't have one for that.

MR. BABCOCK: That's the issue, I'm thinking that if you had an old deck and you want to replace it the zoning is the zoning.

MS. FOSCHINI: No, he didn't get a building permit for the other deck.

MR. KRIEGER: So legally it's as if it didn't exist.

MR. BABCOCK: That's correct.

MR. TORPEY: Those two decks connected?

MR. BABCOCK: Yes.

MS. FOSCHINI: Yes, there's steps.

MR. KRIEGER: And the one adjacent to the house is adjacent to an exit from the house?

MS. FOSCHINI: Yes.

MR. KRIEGER: So a person exiting the house if the deck weren't there would be likely to fall and sustain serious injury?

MS. FOSCHINI: Yes.

MR. KRIEGER: So it's a safety issue?

MS. FOSCHINI: Yes.

MS. GANN: Any other questions? I'd like to open this up to the public. Are you here, sir, for this public hearing? Okay, I'm going to close the public hearing and ask Myra how many mailings we had.

MS. MASON: On June 26, we mailed out 42 envelopes and had no response.

MS. GANN: I'll accept a motion.

MR. LUNDSTROM: Madam Chairman, I will offer a motion that the application of Errol Foschini request for 22 foot rear yard setback for pool with deck attached to the house at 13 Shaker Court in a CL-1 zone be approved.

MR. TORPEY: Second it.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

SIGN_LANGUAGE_(FOR_GREEN_GARDEN)_(06-35)

MS. GANN: Request for 5.33 ft. width for proposed wall sign at 176 Windsor Highway.

Mr. Tom Walsh appeared before the board for this proposal.

MR. WALSH: My name is Tom Walsh, my company is Sign Language, Inc. working for Green Garden in the Patriot Plaza.

MS. GANN: What's Green Garden, I'm sorry, what's that?

MR. WALSH: Chinese restaurant.

MS. GANN: Will the new sign be illuminated on the building?

MR. WALSH: Actually it's the same as the other signs that we had approved in the previous meeting, it's internally illuminated with neon.

MR. KRIEGER: But non-flashing?

MR. WALSH: Right.

MR. TORPEY: It's going to fit in that hole again?

MR. WALSH: Yes, it should show if you have a picture of it it's within that inset, it's basically the same height letters as the other letters as the Dollar Store.

MR. TORPEY: Yeah, I seen a couple of signs didn't go in, somebody has them stuck out like.

MR. WALSH: They're mounted on a raceway, well, you can't do that with the letters they're about five inches deep, raceway's another eight inches deep.

MR. TORPEY: It looked out of order because the rest of them are so nice in the holes.

MR. WALSH: Which one? No, they're all the same level.

MR. TORPEY: They're stuck out instead of inserted.

MR. WALSH: Well, the inset is only a half inch so it's impossible to make a letter that thin and plus with maintenance of the plaza if you direct mount letters and let's say the Green Garden moved out somebody else moved in you're going to have a fascia that's riddled with holes for the next person to come and it's going to look really shoddy after a while, so this is the cleanest install for maintenance, it's very easy maintenance for them.

MR. KRIEGER: Now, Mike, this would be in terms of length is this equal or less than what's allowed in the code?

MR. WALSH: Length it exceeds it by 5.33 feet but its overall square footage it's under what's allowed in the code, it's just that for every sign your code says you can have a 3 x 10 and it doesn't work well with a lot of architecture on certain buildings in the area.

MR. BABCOCK: I have advised my office that I want them to write up these on this building for the total size of the thing like we did the first one only because if he comes back to me and they want to become Yellow Garden they don't need a variance because if the sign fits within that indentation area I want to be able to let him put it up. So I think the variance should be for that size not for just what size he's putting up so if somebody changes their name you don't have to come through this process again, you just come to us.

MR. WALSH: What about future buildings?

MR. BABCOCK: That's what we're going to do, we're going to do the whole indentation every time they come for a variance and they should build their next building with the right size indentations then they wouldn't have to come here, that's what my answer would be. But that's their, I know what you're saying.

MR. WALSH: The only thing is with your restrictions of three foot by ten foot almost all channel letters will not fit within those parameters. The only one we got lucky on was Pizza Mia cause that name was so short but every single sign that's going in the plaza is within the square footage that you allow, it's just not the dimensions that--

MR. LUNDSTROM: Madam Chairwoman, Mike, on the application here, the description you have down for the wall signs is that basically for this particular one or will that cover any new or changed since that's going into that spot?

MR. BABCOCK: It's 2 1/2 x 10 is what they're allowed by code, the 1.5 x 15.33 is just for Green Garden.

MR. LUNDSTROM: So if this changes to Yellow Garden they have to come back?

MR. BABCOCK: That's right.

MR. LUNDSTROM: Just one question for the record are there other signs like this in the area?

MR. WALSH: Yes.

MR. LUNDSTROM: Just for the record.

MS. GANN: I'd like to open this up to the public. I see no one's here for this meeting so we're going to close the public portion of the meeting and ask Myra

how many mailings we had.

MS. MASON: On June 26, I mailed out 48 envelopes and had no response.

MS. GANN: I'll accept a motion.

MR. LUNDSTROM: Madam Chairwoman, I will offer a motion that the application for Sign Language for Green Garden request for a 5.33 foot width for proposed wall sign at 176 Windsor Highway in a PUD zone be approved and authorized.

MR. TORPEY: Second it.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

MS. GANN: Motion for adjournment?

MR. LUNDSTROM: So moved.

MR. TORPEY: Second it.

ROLL CALL

MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. GANN	AYE

Respectfully Submitted By:

Frances Roth