

TOWN OF NEW WINDSOR

ZONING BOARD

September 9, 2013

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

ALSO PRESENT: GEOFFREY CHANIN, ESQ.  
ZONING BOARD ATTORNEY

JENNIFER GALLAGHER  
BUILDING INSPECTOR

CAMMY AMMIRATI  
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE  
PAT TORPEY

MEETING AGENDA:

1. Shea Piekarz
2. FATM Properties
3. Allen Dantas
4. Gulf/Old Temple Hill Road, LLC
5. Leroy Porter
6. Gary VanVoorhis
7. Aryan, Inc.

**REGULAR MEETING:**

MR. CHANIN: Alright, ladies and gentlemen, we're on the record tonight. This is the regularly scheduled September 9, 2013 meeting of the Zoning Board of Appeals of the Town of New Windsor. The seat to my right is normally held by Michael Kane who is the chairman of this board. I just got off the phone with him thanks to the wonders of modern cellular technology and he informs us that he will not be here tonight so he extends his apologies to everyone not being here, it was an unavoidable circumstance. We're also missing one other board member, Mr. Torpey. However, under the

law, three people on the board is a quorum and we're certainly legally entitled to conduct business tonight. Mr. Scheible here will be our temporary acting board chair and will control the quorum and procedure of the meeting. What we usually do in these circumstances when we have less than an actual compliment of board members present since the law requires that any approval given by the board tonight requires a minimum of three votes that would mean that anybody who has an application subject to the board's approval for tonight's agenda would require a unanimous vote which is obviously theoretically more difficult to achieve than a vote of four to one or three to two if the other two board members were present. So under these circumstances, it's usually the practice of the board to give the applicants the option if you want to go forward tonight then you're seeking approval from the unanimous vote of the three board members present. If you would rather not go forward tonight, you're entitled to an adjournment of your application until a future meeting when more board members will be expected to be here. So that will be up to you. And we'll ask you that question when your agenda item is called. And with that preliminary announcement, I turn the board, meeting over to Mr. Scheible.

MR. SCHEIBLE: Welcome everyone. We'll start with the preliminary meetings.

PRELIMINARY MEETINGS:

SHEA PIEKARZ (13-18)

MR. SCHEIBLE: First on our agenda is Shea, correct me if I say this incorrectly, Piekarz.

MR. CHANIN: Stand over there and speak loud enough for the board members to hear you and also for all the people in the audience to hear you and most importantly of all for the stenographer to hear you because your words are being recorded. Thank you.

MR. SCHEIBLE: I'll just read off what you're here for this evening. This young lady's looking for an interpretation is requested for an existing second kitchen. The second kitchen either creates a two-family house or a single-family house with two kitchens. Located at 405 Mt. Airy Road in an R-3 zone. Is that correct?

MS. PIEKARZ: Yes.

MR. SCHEIBLE: Now, if you'd just like to tell us what you're here for this evening, we would appreciate it.

MS. PIEKARZ: I received a violation notice and this was a remedy or an option that I could take cause I'd rather not have to take out the kitchen if I don't have to.

MR. CHANIN: My name is Geoffrey Chanin, I'm the attorney for the board and Miss Piekarz, is that the right way to pronounce it?

MS. PIEKARZ: Piekarz.

MR. CHANIN: Okay, sorry, sorry, everyone's entitled to have their name pronounced correctly. Do you understand that your application is for this board to rule that your property is a single-family house that happens to have two kitchens? And that should the board grant your application and render you an interpretation that it is a single-family house with two kitchens that that would establish on the records of the town a requirement that your property can only be used as a single family, that it can't be rented out or part of the house can't be converted into an accommodation for a separate family? Do you understand that?

MS. PIEKARZ: I understand that, yes.

MR. CHANIN: If that's your application and if the board grants your application then you will not be in violation of the Town Code. But for the future for your use and anybody that you sell the home to, it's intended that the use be restricted to being a single-family home. Do you understand that?

MS. PIEKARZ: I do, yes.

MR. SCHEIBLE: You have to understand this is a two part zoning board. You have your opening meeting, you know, put forward what you would like to have done and then you would also have to go into a public hearing which would be in the future. Understand that?

MS. PIEKARZ: I do.

MR. SCHEIBLE: Okay, gentlemen, any questions?

MR. BEDETTI: How long has this kitchen been in your house?

MS. PIEKARZ: Since I bought it.

MR. BEDETTI: And that was how long ago?

MS. PIEKARZ: 2011.

MR. BEDETTI: Does this kitchen just serve your family or is there anyone else?

MS. PIEKARZ: Yes.

MR. BEDETTI: Has the house ever been rented since you owned it?

MS. PIEKARZ: Yes, I rented it, that's why I got the violation. There's no longer a renter in the home and I just want to use it for personal use cause I don't want to tear it up.

MR. BEDETTI: So it has been used as a rental in violation of the zoning code?

MS. PIEKARZ: Right.

MR. BEDETTI: Is there free access from your part of

the house that you live in to downstairs?

MS. PIEKARZ: No, I have to go outside and get into it through the outside.

MR. SCHEIBLE: So in essence it's a separate entrance apartment, is that what you're telling us? You said you rented this out.

MS. PIEKARZ: Yes.

MR. SCHEIBLE: This is an apartment below you?

MS. PIEKARZ: It's below, it's in the basement.

MR. SCHEIBLE: In the basement, so you've had this rented out as an apartment or--

MS. PIEKARZ: Right, for five months I did rent it out.

MR. BEDETTI: Another question, is this, does this have a separate electric meter?

MS. PIEKARZ: No.

MR. BEDETTI: All off one meter?

MS. PIEKARZ: Yes.

MR. HAMEL: That's a gas meter, you only have one gas meter?

MS. PIEKARZ: Ah-huh.

MR. CHANIN: You have to say yes or no because your words are being recorded and ah-huh doesn't record.

MS. PIEKARZ: Right, yes.

MR. CHANIN: Couple more questions. You said you owned the house since 2011?

MS. PIEKARZ: Yes.

MR. CHANIN: And you said the kitchen, the basement kitchen was there before then?

MS. PIEKARZ: Yes.

MR. CHANIN: Do you know how long it was there before

then?

MS. PIEKARZ: I do not know.

MR. CHANIN: Do you know how long the people you bought the house from have owned it?

MS. PIEKARZ: Since the '80s.

MR. CHANIN: Okay, and with respect, to the best of your knowledge, with respect to your property and specifically with respect to the second kitchen, other than the reason why you're here which is that you were issued a code violation, is there anything else that you need the board to know with respect to that second kitchen, other than you want the board to declare this a single-family house that happens to have a second kitchen?

MS. PIEKARZ: No, I don't think so.

MR. SCHEIBLE: So there's no intention on renting out this lower area?

MS. PIEKARZ: No, not again, no.

MR. SCHEIBLE: Any other questions?

MR. HAMEL: I'd like to see maybe the next time that she comes back to bring a picture of meters so we can just see it's one electric and one gas meter.

MS. PIEKARZ: Okay.

MR. SCHEIBLE: Just one more question. Besides, I'm looking, it's a pretty good sized kitchen evidently that we're talking about, are there living rooms?

MS. PIEKARZ: It's an open area, the kitchen kind of is in the whole open area, there's not separations.

MR. SCHEIBLE: No separations?

MR. HAMEL: Do you have a bathroom?

MS. PIEKARZ: Yes.

MR. SCHEIBLE: Any other questions?

MR. BEDETTI: The only other question is it possible to

have an internal access to this? You said you currently have to go outside.

MS. PIEKARZ: There's no stairs, no doorway, no, I would have to put in an access from inside.

MR. BEDETTI: I'm good. Looking for a motion?

MR. SCHEIBLE: Make a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Shea Piekarz for an interpretation for a second kitchen for a single-family home located at 405 Mt. Airy Road in an R-3 zone.

MR. HAMEL: I'll second it.

ROLL CALL

MR. SCHEIBLE                    AYE

MR. BEDETTI                    AYE

MR. HAMEL                        AYE

MR. SCHEIBLE: So you have the proper information this young lady will give this to you.

MS. PIEKARZ: Thank you.

FATM PROPERTIES (13-19)

MR. SCHEIBLE: Next FATM Properties seeking a variance required for lot width, one side yard and building height. Located at 266 Windsor Highway, Route 32 in an HC zone. Referred by planning board. Sir, could you just state your name?

MR. DI CHIARO: Yes, my name is Christopher DeChiaro, I'm an engineer representing the applicant. My address is 51 Hickory Hollow Court, Palenville, New York.

MR. CHANIN: Would you please spell your name, please?

MR. DI CHIARO: Yes, D-E-C-H-I-A-R-O.

MR. SCHEIBLE: Would you like to present exactly what you're speaking on this evening?

MR. DE CHIARO: The applicant basically is looking at this piece of property to construct a building for medical office rental space. It's about a three acre parcel and currently has several buildings on it. All the existing buildings would be demolished and they're looking to construct one building approximately 153 by 50 feet. When they first started looking at the property, it was actually partially zoned industry and partially HC and the owner had some environmental clean-up issues which delayed the transaction of the property. And in that timeframe probably about a year ago now the zoning has changed to all HC. Originally, there was a line that bisected this piece and the variance that we're actually looking for wouldn't have been necessary on the part that was industrial. Now because the entire property's HC basically he needs, the entire building would be affected by the variance. But essentially, what he's looking to do here is develop the front portion of the property because that's where he's got access to a major road. That's a big part of the value of the property for him. And the back of the property there's a couple of issues. Number one, there's a stream that sort of by bisects there this big chunk of property which would have to be relocated if you tried to push the development back further. The other issue there's some kind of drainage installed years ago to keep the back area a little bit dried out so that would also have to be relocated at considerable cost to developing the property. The other issue if they went back that far they'd create enough disturbance that it could complicate storm water

drainage treatment of the project. And basically, all those things would put the project out of budget for them as far as kind of return they could get on the rental space. So essentially they're trying to contain the development to the front portion of the property. There's no land for any future development back there. We do need a 30 foot fire lane here, obviously need some parking in front of the building which is kind of what pushes us to one side. And so we're basically looking to, you know, if we can get this layout approved we're looking to get a 15 foot side yard and we're 30 foot currently. The other issue is that because of the proximity to the property line, the building's 21 1/2 feet tall, the zoning, the way the zoning is written right now you need one horizontal foot for every vertical foot. So we're 15 feet, we're a little bit over on the building, just a single story building with a simple truss roof but you do get into 21 feet because of the width. So that's it. We're able to a little bit more than satisfy parking criteria. We have been to a workshop with the town engineer to come to this layout and basically this variance pretty much drives the project.

MR. SCHEIBLE: I've only lived here my whole life, I'm trying to locate this location.

MR. DI CHIARO: It's across from the credit union, Hudson Valley Credit Union, next to Premier Auto.

MR. SCHEIBLE: Okay, now I'm familiar. Sometimes you see it in a picture you just can't visualize it.

MR. DI CHIARO: This is an area, these are the, are the buildings that are on this property right now, this is the, you can see the existing, I don't know how well you can see it from there, you can see the entire lot is now HC.

MR. SCHEIBLE: Now there's a stream that comes off that hill right there. Now I know where I'm talking about.

MR. DI CHIARO: Yes.

MR. SCHEIBLE: That stream runs basically all year long.

MR. DI CHIARO: Yes, it seems to, I've been out there a couple times.

MR. SCHEIBLE: Can't interrupt that stream, I'm sure of that.

MR. DI CHIARO: Yeah, that's one of the reasons we'd like to keep off the back of the property, it won't be an easy thing to deal with.

MR. HAMEL: What size building are you planning to build, one story, but what would be the square footage?

MR. DI CHIARO: About 7,650, the current configuration, yup, and I think they plan on having the building, they'll probably have a central fire wall, have two spaces, I think they know they can probably fill one half at least with medical professional and then the other half would just be some other type of professional offices if they can't get any medical so that's the current plan if they can get it to work. We've got water, sewer right here in the street, pretty straightforward, grades work for the drainage. We can handle the drainage under this area of the parking lot, provided we keep the disturbance contained enough to not have to get into storm water ponds and all that. So that's one of the other restrictions here, we really can't go out any further than we are here.

MR. CHANIN: So Mr. DeChiaro, is it your proposal if this is approved the drainage conditions and erosion and bonding conditions would actually be enhanced, is that correct?

MR. DI CHIARO: Yeah. Actually right now everything here that's going out to the street untreated would actually be captured and treated in a subsurface drainage system under the parking lot.

MR. CHANIN: Does your proposal require significant cutting of vegetation or trees?

MR. DI CHIARO: Not really, the tree line you can kind of see on the map here is basically all out back, this is mostly all existing pavement now which we'd pretty much just demolish and replace with newer pavement. This is covered with whatever surface, there's some grass here and there but for the most part it's covered.

MR. CHANIN: If your proposal was permitted, would you be encroaching on any existing right-of-ways, utility lines, corridors, anything like that?

MR. DI CHIARO: No, no.

MR. SCHEIBLE: You have some major fir trees, looking at the picture there now, are they going to be erased or are you trying to save as many of these as possible?

MR. DI CHIARO: A lot of the trees you're talking about are on the northeast side of the property, so a lot of the trees there are not in that great of shape, I don't know that they feel too comfortable having those trees that size that close to the building. So I think the thought was to take them down and get some landscaping up there so they planned on some hedge rows, few more trees in there. There's a privacy fence already existing between the school next door and this property that's actually on their side. So that wouldn't impact it. So as far as screening goes between school and the trees are actually so large they wouldn't provide much in the way of screening anyway so but the answer I guess is no, they probably wouldn't really try to preserve too many of the trees, they're not in very good shape.

MR. HAMEL: I come out the back way quite a bit across the way from this, it's probably not our responsibility but the planning board but there needs to be a traffic light up there because trying to make a left out of the side street and then building across the way, it's, they're going to be turning right into each other. It can be a very dangerous area and a lot of traffic coming down 32, you can see pretty far south but still it's--

MR. DI CHIARO: Actually, a light.

MR. CHANIN: Just try to speak so the public can hear you and the stenographer can hear you.

MR. DI CHIARO: No, just saying there's a light right in that proximity, I don't know if they'd be able to--

MR. HAMEL: No, the closest light would be down at the Union Avenue and 32 and there wouldn't be another light until you reach the Shop Rite Shopping Center or K-Mart.

MR. DI CHIARO: Yeah, there's an existing curb cut and whatever the planning board advises.

MR. HAMEL: It's dangerous coming out, making a left, I go out there all the time and I know exactly where this is, yeah.

MR. DI CHIARO: No, I'm sure that the applicant wouldn't be opposed to whatever kind of traffic study or traffic control needed to be looked at for that.

MR. HAMEL: But that's the planning board, right?

MR. CHANIN: Yes.

MR. SCHEIBLE: That's the planning board.

MR. BEDETTI: That property is bounded by Route 32 on the one side?

MR. DI CHIARO: Yes.

MR. BEDETTI: And where is the closest residential area to that?

MR. DI CHIARO: Across the street.

MR. BEDETTI: On your side of the street?

MR. DI CHIARO: There's the pre-school on one side, there's the auto dealer on the other side, the railroad is here so we don't have any immediate adjacent residential properties. I think if you go up or down the road a little bit there's sort of houses spattered in with the commercial businesses but nothing directly abutting, no.

MR. SCHEIBLE: I sort of agree with what the gentleman here was saying about what that's become over the years a very, very busy intersection there coming off Willow, coming off Willow and sometimes I've sat there for, you know, 10 minutes, you know, waiting to pull out and hopefully I pull out and I'm still safe. But that's got to be up to the DOT to make that final, first the planning board then on to the DOT to make that decision if it's necessary.

MR. DI CHIARO: Yeah, the planning board's already made it clear they're going to refer this to the DOT about the existing curb cut, the reuse and the DOT is going to have some opinion on that.

MR. SCHEIBLE: Okay, gentlemen?

MR. BEDETTI: Just one other question. Is there any other possibility of reducing the height of this building--

MR. DI CHIARO: The building is currently--

MR. BEDETTI: -- to meet the code?

MR. DI CHIARO: It wouldn't, no, we wouldn't be able to get it to 15 feet, it's too wide and they're trying to go with a simple wood truss construction to keep the costs under control so kind of gives you a little bit of height.

MR. HAMEL: And I think the elevation of the land I think goes up in that back area too.

MR. DI CHIARO: Yeah, it does, right, yeah, it would be, but to answer your question, it would be pretty tough to get much shorter than it is. They're trying to keep the construction costs to a minimum so they'd love to have it a little bit lower if they could cause it could save some more money. But the truss configuration is probably about as cost effective as you can go, that's what gives you the height.

MR. SCHEIBLE: This is being built strictly as an investment, there are no non-occupants that would come in here at this point in time?

MR. DI CHIARO: I think they probably have some medical offices in mind. I don't know that much about their intent, except I know they do intend to have medical professionals in there so some kind of probably emergency treatment care, that type of thing, doctors.

MR. SCHEIBLE: Okay.

MR. BEDETTI: I'll make a motion we schedule a public hearing for FATM Properties for a variance as requested at 266 Windsor Highway known as Route 32 in an HC Zone.

MR. HAMEL: Second it.

ROLL CALL

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

ALLEN DANTAS (13-20)

MR. SCHEIBLE: Next on this evening's agenda is Allen Dantas. Variances requested for gross lot area. Required lot area 60,000 square feet, proposed lot area 55,414 square feet. Variance of 4,586 square feet requested. Located at Riley & Dean Hill Roads in an R-3 zone.

MR. CHANIN: Who's Mr. Dantas?

MR. DANTAS: I'm Allen Dantas.

MR. CHANIN: And you are?

MR. VALDINA: I'm Frank Valdina, Valdina Consulting Engineers.

MR. CHANIN: Okay, go ahead.

MR. VALDINA: Alright, Mr. Dantas and his wife had owned a piece of property on the corner of Riley and Dean Hill Road since 1986, there's been various changes in zoning since that time. Based on the latest zoning they're requesting to subdivide and we have been before the planning board, single-family residence parcel and a parcel for, large parcel for a duplex. The single-family residence meets the zoning requirements. However, based on the requirement of the planning board to dedicate the 25 foot strip from the center line of the road to the west for highway purposes that reduces that lot to around 36,000 which is about 10 percent under the zoning requirement. On the duplex the zoning requirement is 60,000 square feet, the gross area is around 56,000 square feet. However, once we take as you can see there's a large dedication piece required by the town that brings the net area down 46,000 square feet. We have been before the planning board, they have reviewed this, they were, they indicated, they were going to send a letter of favorable recommendation to this board, this can be verified by Jennifer, she was at the meeting. The photos that were presented with the application just to orient you the first one is looking north from Riley Road, the property is in the center upper half of the picture. The other photo is looking south on Riley Road, the property is again on the upper portion. The third photo is looking down Dean Hill Road towards the site again, you can see it's just a heavily weeded area. If you notice in the second photo this yellow area in the front that's this

house which is basically behind the duplex lot proposed lot and the photo from Dean Hill Road off the right-hand corner this was the house that was basically right across the street from where they propose to put the duplex. All the other zoning requirements can be met without any variance requirements. Like I say, Mr. Dantas has owned this since 1986 and based on changing zoning he now feels that it's at a time where he can at least get some economic benefit out of it after paying taxes for these last 20 some years.

MR. SCHEIBLE: It's a nice the vegetation area and are there any intentions of destroying of the vegetation, just making it flattened out?

MR. DANTAS: Well, landscape will take care of that, after we, it will look better after we put a house up.

MR. VALDINA: If you notice the vegetation is pretty wild.

MR. SCHEIBLE: It's pretty wild.

MR. VALDINA: This tree may be in the way for sight distance.

MR. SCHEIBLE: I just like the way, how it would look if you keep as much as possible.

MR. DANTAS: It's pretty clean the lot.

MR. VALDINA: It's proposed to keep the houses back, not right up to the road. We'll be connecting to municipal water and sewer.

MR. CHANIN: Mr. Valdina, do you think that the development if approved will encroach on any easements, right-of-ways or anything of that nature?

MR. VALDINA: No. In fact, right now it's the other way around. The town's encroaching on Mr. Dantas' property with water and sewer lines.

MR. CHANIN: Do you think that the development if it's approved will create any ponding, erosion or other sorts of MS4 problems?

MR. VALDINA: No.

MR. SCHEIBLE: So am I to understand yes there's water

and sewage available?

MR. VALDINA: Yes, there are on both roads.

MR. HAMEL: What type of houses do you plan on putting up on lot number one?

MR. VALDINA: Lot one is going to be a ranch style house.

MR. HAMEL: Single.

MR. VALDINA: Single family ranch.

MR. HAMEL: One story?

MR. DANTAS: Yes.

MR. VALDINA: On the duplex that would most probably be a two story structure.

MR. HAMEL: Next to each other?

MR. VALDINA: Yes, that's why I say the other houses, one right across the street is a two story, the one behind is two story, there's one up Dean Hill which is quite a large house, at least two story, if not more. Across the street there's heavy large trees, so you can't even, it's hard to see the house that exists right there now.

MR. SCHEIBLE: It's a nice neighborhood, that's why I'm just, you know, my question was, you know, how much of the actual trees that we can preserve.

MR. VALDINA: Yeah, there aren't very many on the one on the corner, it's questionable whether it's even worth saving.

MR. SCHEIBLE: Understood.

MR. BEDETTI: I have a question. Prior to the land area that's going to be dedicated for the roads, did that meet the code prior to that dedication?

MR. VALDINA: This lot did, yes, lot two met the code without the dedication, it's a little over 40,000, 40,002 square feet. This lot is about 5,600 feet shy or 4,600, roughly 4,600 feet shy, about nine percent.

MR. SCHEIBLE: That's the one in blue?

MR. VALDINA: Yes.

MR. SCHEIBLE: Does that include the town's--

MR. VALDINA: It includes the piece that's going to be proposed to be dedicated.

MR. SCHEIBLE: That's what I wanted to know.

MR. VALDINA: Yes, the net area without this is the 46,000. Mark suggested even though normally when a piece is dedicated to the town, the owner doesn't get penalized because of that, he suggested because of the duplex and the extent of dedication that it be, the variance be for the lower number.

MR. BEDETTI: I agree, I was at that meeting, that planning board meeting and there was a recommendation by the planning board for a positive consideration on this. I'm good.

MR. CHANIN: Need a motion.

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

MR. BEDETTI: I'll second it.

ROLL CALL

MR. SCHEIBLE            AYE

MR. BEDETTI            AYE

MR. HAMEL                AYE

MR. SCHEIBLE: Good night, gentlemen.

GULF/OLD TEMPLE HILL ROAD, LLC (13-21)

MR. SCHEIBLE: Next on the agenda is the Gulf/Old Temple Hill Road, Inc. LLC. Someone there for this application?

MR. CORANAS: Yes.

MR. CHANIN: Your name?

MR. CORANAS: Kevin Coranas.

MR. CHANIN: You can go ahead, please.

MR. CORANAS: I'm from Conklin Services, Hudson Service Management that bought the station, the old Stewart's in New Windsor. And they had a four by eight Stewart sign there, single post and what he wants to do is put a five foot wide goal post sign they call it. Do you have pictures of the sign?

MRS. GALLAGHER: Yes.

MR. CORANAS: It's five foot wide but it's 15 foot tall so it's only five foot wide, it's 15 foot tall so it's five by nine is the actual signage though which is the old sign was 64 square feet which I don't know what the maximum you can have. He's looking for an extra 26 square feet. It's like I say the five by five Gulf sign and there's two prices which are digital which is another five by four it's going to be put in the same place as the existing sign.

MR. SCHEIBLE: This sign here is not, it's not in the local area so I'm not able to drive by and see what this sign looks like, the sign that you're showing where is that located?

MR. CORANAS: No, this is a picture showing what it looks like.

MR. SCHEIBLE: I thought maybe it was possibly in this area.

MR. CORANAS: This is from his station on 9W that he owns in Middlehope that picture of the sign.

MR. BEDETTI: Your proposal is to put that sign in the same location as the old sign?

MR. CORANAS: Exact same spot.

MR. CHANIN: Is the sign, the new sign that you're proposing going to be illuminated?

MR. CORANAS: Yes.

MR. CHANIN: How is it going to be illuminated?

MR. CORANAS: The price signs are digital, the prices for the sign are digital and the Gulf sign is just illuminated clear plastic with the light behind it.

MR. CHANIN: And is it going to be illuminated by a light source internally?

MR. CORANAS: Yes.

MR. CHANIN: Will that light source flash?

MR. CORANAS: No.

MR. CHANIN: And will that light source be on 24-7 or only certain times?

MR. CORANAS: Twenty-four seven.

MR. CHANIN: Will you be cutting any significant vegetation?

MR. CORANAS: No, not at all.

MR. CHANIN: Will you be creating ponding or erosion problems?

MR. CORANAS: No.

MR. CHANIN: Will you be transgressing on an easement or right-of-way?

MR. CORANAS: No.

MR. CHANIN: Will it be used for a Gulf station?

MR. CORANAS: Yes.

MR. BEDETTI: It appears as though it's going to be high enough where it will not obstruct line of sight of vehicles coming or going.

MR. CORANAS: I don't know if you know the existing sign, it's a ways off the road, it's not even right next to the road, it's a ways off.

MR. BEDETTI: Yeah, I do know the sign. I mean, the fact that it's a little bit larger than the other sign and it's raised so it doesn't block the view of cars coming out of the side roads.

MR. CORANAS: No, absolutely not.

MR. SCHEIBLE: We're only talking about one sign at this location?

MR. CORANAS: Yes.

MR. SCHEIBLE: Just want to make sure of that, that there's not any coming up the old road.

MR. CORANAS: No.

MR. SCHEIBLE: Is there a motion?

MR. BEDETTI: I'll make a motion we schedule a public hearing for Gulf/Old Temple Hill Road LLC for a proposed freestanding sign replacement that will be larger than existing sign and requiring a variance of 26 square feet located at 68 Old Temple Hill Road in an HC Zone.

MR. HAMEL: I'll second it.

ROLL CALL

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

PUBLIC HEARINGS:

MR. CHANIN: Ladies and gentlemen, we're in a portion of the hearing where the public hearings for these three applications that were previously scheduled by the board at earlier meetings are now before us tonight. Because two board members are absent, I will repeat the announcement we made at the beginning of the meeting. Each one of these applicants will be given the courtesy of having the option of going forward tonight if they wish with their public hearing and then awaiting the decision of the board whether or not to approve the application. If you choose to go forward for an approval to be granted, it would be necessary for all three members of the board who are present tonight to be unanimously in favor of that application. If the applicant chooses not to go forward tonight in order to be fair to you to give you the opportunity to have your decision made by a board that has more than just three members present then you can exercise your option if you wish to come back for the public hearing at some other time.

LEROY PORTER (13-14)

MR. CHANIN: So the first application we have tonight for a public hearing is Leroy Porter. And your name is, sir?

MR. CELLA: Jonathan Cella.

MR. CHANIN: And you are Mr. Porter?

MR. PORTER: Yes.

MR. CHANIN: Can you spell your last name, please?

MR. CELLA: C-E-L-L-A.

MR. CHANIN: Thank you. Go ahead, please.

MR. CELLA: Good evening, we're here for 9 Melrose Avenue owned by Mr. Leroy Porter, section 13, block 7, lot 11.2. It's an existing 6,000 square foot residential lot serviced by town water and sewer. It's in the R-4 zoning district and it contains an existing two story single-family residence in the northeast corner of the parcel. It was built in 1930s. And our proposal is to knock down the building and put up a new single-family residence which would be more centered on

the lot. We feel that we'd improve the character of the neighborhood. We have provided some pictures that show the condition of the structure and we feel that it would be more cost effective to replace the building than to try to do a major renovation. Right now the existing building is approximately one foot away from the eastern property, northeastern property line and we did center that building so that we have approximately 20 feet on one side and 10 feet on the other side. We have provided a new front elevation that we're working with right now, might change it slightly but that's the, based upon the shape of the building that's what we're looking at doing and we have a nice covered front porch.

MR. SCHEIBLE: I notice you do have some vegetation in that area, how much of that would be demolished when the new building goes up or are you going to replace it with, you know, new vegetation so far as trees, shrubbery and so forth?

MR. CELLA: The existing vegetation that we'd impact is mainly shrubbery so in the long run we'd replace it.

MR. SCHEIBLE: Reason I'm bringing it up that neighborhood there's a lot of nice old nice looking trees and vegetation in the neighborhood. I just want to make sure that some of this is replaced after.

MR. CELLA: Yeah, it's going to be an owner occupied building so of course they'd be taking pride in landscaping the yard.

MR. CHANIN: Will you be encroaching on any right-of-ways or easements?

MR. CELLA: No.

MR. CHANIN: Will you be creating any erosion or ponding problems?

MR. CELLA: No.

MR. CHANIN: Mr. Cella, the last time you were here you indicated a, which was on August 26, you indicated that the dimensions of the proposed new building are approximately 30 feet by 40 feet, is that correct?

MR. CELLA: Yes, 30 feet by 40 feet with a six foot front porch.

MR. CHANIN: And the last time you were here on August 26 one of our board members, might have been Mr. Bedetti, I'm not sure, but one of our board members requested additional information regarding the shed at the back.

MR. CELLA: Yes, sorry, I meant to bring that up but we have a Certificate of Compliance for the shed, that's our copy but--

MR. CHANIN: Just let the record reflect since we only have one I'm going to read it into the record so that the other board members know that Mr. Cella has provided us with Certificate of Compliance number 13-374 issued by the Town of New Windsor Building Department signed by Louis Krychear dated this day, September 9, 2013 which indicates that it is hereby certified that inspections of the building or structures noted below have been conducted pursuant to applicable regulations and such inspections have revealed no uncorrected deficiency or material violation of applicable laws or codes. And the structure noted below is a residential shed permit number PA2013-608. So that's now read into the record.

MR. BEDETTI: And that shed is going to stay in place?

MR. CELLA: Yes. So we drove around the neighborhood again and took some additional photos of some of the other lots that were, that are existing as well as some that we feel that were probably built in the past 10 years that were granted similar variances.

MR. CHANIN: When you say you drove around the neighborhood and looked at similar properties, what did that drivearound and inspection of the neighborhood disclose to you?

MR. CELLA: Well, it's, they're all older buildings and we feel that like I said before replacing our structure we feel that we'd definitely be doing a good thing for the neighborhood.

MR. CHANIN: You think the proposal if approved would change the character of the neighborhood?

MR. CELLA: No.

MR. CHANIN: Do you think it would have a negative

impact on the aesthetics or on the economics of the surrounding neighborhood?

MR. CELLA: We feel that it would be a positive, as you see, the existing building needs some repair work again.

MR. SCHEIBLE: I assume that there's water, sewage?

MR. CELLA: Yes, town water, sewer and gas.

MR. CHANIN: Any questions for the other board members? Then you can have your public hearing.

MR. BEDETTI: I see certainly the proposed location increases the space between the house on the right, how about on the left, is that open land?

MR. CELLA: This is a developed lot, you're talking that would be on the corner of Melrose and Clancy Avenue, this is an existing residence here but we'd be going closer to that since we're decreasing that side yard.

MR. CHANIN: I have a question for Mrs. Gallagher or Ms. Ammirati. We were told last time at our August 26 meeting that the proposed improvement is going to be built on a lot which is below the minimum lot size?

MRS. GALLAGHER: That's correct.

MR. CHANIN: Is a variance from lot size requested here? According to our application the requested variances were 13 feet in the front yard setback, 30 feet for each of the two side yards, 13 feet for the rear, is that correct?

MR. CELLA: Yes.

MR. CHANIN: My question is is there another variance needed for minimum lot size?

MRS. GALLAGHER: No, because it's an existing building lot.

MR. CHANIN: The answer is no because it's existing. Thank you. I wanted to clarify that. You can have your public hearing.

MRS. AMMIRATI: On the 27th day of August 2013, I

compared 95 addressed envelopes containing the public hearing notice pertinent to this case with the certified list and got no responses.

MR. SCHEIBLE: At this point in time I'd like to open it to the public. Any questions? Anybody here?

MR. CHANIN: Anybody here who wants to make a comment, please step forward.

MR. CHANIN: Stand next to Mr. Porter and in a nice, loud voice so the public and the stenographer can hear you, please tell us your name.

MR. BABCOCK: I'm Jack Babcock, 4 Blanche Avenue, the property's right behind mine.

MR. CHANIN: You're entitled to make a comment now on the proposed application.

MR. BABCOCK: First off when I got the notice I thought that it was a pre-existing condition cause years ago, I remember we made available for small lots in the City Park area, better known as Ducktown and I thought that was still in existence. And I talked to the secretaries and they straightened me out on that that you had three years to exercise your option. I have no objection to the house. My only concern was the fact that the other houses on the street are going to make him set it back 30 feet off the front yard and it won't line up with the rest of the houses on the street. My concern is what is it going to look like? That's just my opinion. It may look fine to the owner, may look fine to the other neighbors but me, I just like to see things in line with one another. But I have no objection to that because the piece of property that's there now is in deplorable condition and I only wanted to see what they were going to build there. Other than that, I have no problem with them, with you granting them the permit.

MR. CELLA: We have a rendering of the front of the proposed building here.

MR. CHANIN: Let the record reflect that Mr. Cella is offering the photographs that he brought with him tonight to the person who just made the comment and I assume, I'm sorry, sir?

MR. BABCOCK: That's all I have.

MR. CHANIN: I assume you heard Mr. Cella's answer to the question that the board asked previously that they did an inspection of the neighborhood, that they want the house to be compatible and to aesthetically blend with the other houses in the neighborhood and that's, the applicant is suggesting that if this is approved that it would actually enhance and improve the appearance of the property as well as the aesthetic compatibility of the project with the surrounding neighborhood.

MR. BABCOCK: Most definitely. Thank you.

MR. CHANIN: Are there any other public comments?

MR. SCHEIBLE: Anyone else have anything at this time? We'd like to close the public hearing on the Leroy Porter piece of property.

MR. CHANIN: Unless there's any other, Mr. Porter, I need to be fair to you, I will repeat this for the third time. If you want the board to make a decision tonight, you would require that all three board members present approve in order for your application to be approved. You don't have to do that if you don't want to because two of our board members are absent. So if you don't want to go forward tonight, you don't have to, you can wait until there are more board members present. I will give you a piece of information, this is for everybody's general information. With the zoning laws of the State of New York, the law is that if somebody makes an application for a variance and the board denies it, you must wait no less than six months before submitting the same application for the same variance. You don't have to wait the six months. You can submit a new application before then as long as the new application is different than the original one. What the law tries to prevent is people who get turned down from coming back month after month after month. So if you want to go forward tonight, take a chance that you get three positive votes, you might get an approval tonight, if you'd rather wait until there are more board members present you can do that as well. It's up to you.

MR. PORTER: No, I'm going forward.

MR. CELLA: Just if we had to change the application to say we changed the front yard setback by a couple feet,

that would be a different application.

MR. CHANIN: The legal standard is that it has to be more than a cosmetic change. It would have to be a significant change, whether it's significant in one case or another remains to be seen.

MR. CELLA: And then if we'd put off the vote the next meeting is in two weeks?

MR. CHANIN: The next meeting is scheduled for September 23, two weeks from tonight.

MR. PORTER: Let's go ahead.

MR. CHANIN: Mr. Porter is indicating he wants to go ahead. Unless there's any other questions by members of the board, you're ready for a motion.

MR. SCHEIBLE: Gentlemen, any questions?

MR. BEDETTI: No, I'm good.

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

MR. BEDETTI: I'll second that motion.

ROLL CALL

MR. SCHEIBLE                    AYE

MR. BEDETTI                    AYE

MR. HAMEL                      AYE

MR. PORTER: Thank you.

GARY VAN VOORHIS (13-16)

MR. SCHEIBLE: Next on this evening's public hearing agenda is Gary VanVoorhis. An interpretation is requested for an existing single-family dwelling with two kitchens or is it a two-family dwelling. Located at 54 Steele Road in an R-4 zone.

MR. CHANIN: Mr. VanVoorhis, you've heard my tiresome announcements all night. Do you understand the ground rules?

MR. VAN VOORHIS: I do, thank you.

MR. CHANIN: You were here last on August 26 and you were going to, you were requested at that time to bring photographs of the meters for the utility serving the residence and I see that you've done so.

MR. VAN VOORHIS: Yes.

MR. CHANIN: And the board members appear to be satisfied with that and we thank you for complying with that request. You understand, as you heard with Miss Piekarz who was here earlier, you understand that if your application is granted, the board will give you an interpretation that this is a single-family dwelling with two kitchens, which in the future means that you can only use it or the person you sell it to is only allowed to use it as a single-family dwelling? You understand that?

MR. VAN VOORHIS: Yes, sir.

MR. CHANIN: You told us last time that it's going to be served by a well through the water supply and also by town sewer?

MR. VAN VOORHIS: Yes.

MR. CHANIN: You told us that this separate kitchen is accessible freely from the rest of the house?

MR. VAN VOORHIS: Yes.

MR. CHANIN: And that you also want to install a stove to go along with the separate kitchen, but nevertheless, even if you're permitted to install the stove, you understand that it remains a single-family house?

MR. VAN VOORHIS: Yes, sir.

MR. CHANIN: Board questions?

MR. BEDETTI: I'm good.

MR. SCHEIBLE: I'm familiar with the neighborhood so I know.

MR. BEDETTI: Did he submit photos with the meters?

MR. CHANIN: Yes.

MR. BEDETTI: Okay, that's good.

MRS. GALLAGHER: He just brought it tonight.

MR. SCHEIBLE: His camera went dead, didn't get all the pictures.

MR. BEDETTI: Thank you.

MR. CHANIN: Alright, you can open the public hearing if you wish.

MR. SCHEIBLE: At this point in time I'd like to open the public hearing for Gary VanVoorhis' piece of property.

MRS. AMMIRATI: On the 27th day of August 2013, I compared 41 addressed envelopes containing the public hearing notice with one response as follows.

MRS. GALLAGHER: Today we received a response from the owner of 58 Steele Road, I'll just read it. Says due to a family obligation, we're unable to attend the meeting for 7:30 on Monday, September 9 that concerns the VanVoorhis home at 54 Steele Road. We have concerns that this will become a two family setup and with much thought and regret we're going to have to object to their request at this time. Sorry for any inconvenience this may cause.

MR. CHANIN: If I may be permitted by the board to speak, I will repeat what I said to Miss Piekarz earlier this evening. The whole point of this exercise is to put on the record with finality and authority that this application is seeking a designation that this is a one-family home and it can only be used in

the present and in the future until such time as the zoning law might change as and for a one-family home. So the objection that we just heard referenced from your neighbor at 58 Steele Road, although the way it was phrased was in the form of an objection, is actually in support of your application because your neighbor also wants this to be a single-family home. And by getting it on the record in this way, assuming the board approves it, you'll be bound by that determination and will only be allowed to use it as a single-family home and if it's rented or used as anything other than a single-family home just like Miss Piekarcz earlier, the owner of the property would be subject to receiving a code violation which is enforceable by a court of law. And you understand that?

MR. VAN VOORHIS: Absolutely.

MR. CHANIN: Okay, are there any public members of the public here that wish to make a comment on this application? Apparently there are none.

MR. SCHEIBLE: No more comments, I'd like to open it to our board members, any other questions?

MR. BEDETTI: No, I'm good.

MR. SCHEIBLE: I'd like to bring it to a motion.

MR. BEDETTI: I'll make a motion that we grant an interpretation to Gary VanVoorhis for a single-family home located at 54 Steele Road in an R-4 zone with two kitchens and that this single-family home needs to remain as a single-family home, cannot be rented nor sold as anything other than a single-family home and this is located in an R-4 zone.

MR. HAMEL: I'll second it.

MR. CHANIN: Before there's a vote, Mr. VanVoorhis, just to give you one last bite at the apple, you remember my earlier speech about the fact that you need a unanimous vote tonight, if you want to go forward tonight with that it vote, you may, if I wish to postpone, you may do that.

MR. VAN VOORHIS: Go forward.

MR. CHANIN: Roll call.

ROLL CALL

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

ARYAN, INC. (GLOEDE SIGNS) (13-17)

MR. SCHEIBLE: Next, correct me if I'm wrong, Aryan, Inc., Gloede Signs. Replaced existing sign with a prohibited sign. A variance for a new electronic message flashing sign, et cetera, is required located at 1035 Little Britain Road in an LC zone.

MR. CHANIN: You're Miss Forrest, are you not?

MS. FORREST: Yes.

MR. CHANIN: You were here on August 26 as the authorized representative of Aryan, Inc.?

MS. FORREST: Yes.

MR. CHANIN: And you're an officer or a director of Gloede Signs, is that correct?

MS. FORREST: Yes.

MR. CHANIN: And last time you were here, the board approved the public hearing scheduled for tonight. You told us that the proposed sign is going to have a flashing message board, that it's going to be in the same location, that it's intended to replace the earlier sign that was damaged by coming into collision with a motor vehicle, I assume the vehicle was moving and not the sign?

MR. FORREST: Yes.

MR. CHANIN: And that you were asked by the board to bring additional information regarding the interval between flashes? In other words, the time delay that would be involved in the operation of this sign, did you bring that information with you tonight?

MR. FORREST: The information, yes, I did. I did speak to the owner, the sign can, he wishes to abide by whatever the board gives as an intermittent time in between, whether that be 10 seconds, 20 seconds, 30 seconds, the sign can be programmed for whatever is dictated. And he has agreed that whatever the board decides he will abide by. The other question that was asked of me was the other name that was put on this sign on the third blank that I was unaware of, I did not letter that blank. Apparently because it was blank and he wasn't using it as a business in his building it

is the building behind him that had asked to put their name on it. I told him I did not know if that was allowed because it's a separate tax parcels but they, I was obligated to share that information with you.

MR. CHANIN: Subject to the board's approval, I'll give you a hypothetical answer to your hypothetical question. And that is that if this board wishes to grant you an approval, it's within their authority if you wish board members to grant that approval and to delegate to the building department and their engineers and staff the authority to dictate the appropriate interval at which the sign will flash. If you want to delegate that authority to the technicians who may have a stronger opinion about that than the board may have, that's if you want to do that. Is it true, Miss Forrest, that you're not going to make any significant cuts to vegetation?

MR. FORREST: Yes.

MR. CHANIN: Is it true that you're not going to encroach on any right-of-way or easements?

MR. FORREST: Yes.

MR. CHANIN: Is it true that the new sign will not cause any ponding or erosion problems?

MR. FORREST: Yes.

MR. SCHEIBLE: I go driving passed that sign just about every day and I notice there's a very small time spaced in between the flashing limits, like a constant flashing, am I correct?

MR. FORREST: Sometimes it is and sometimes it isn't.

MR. SCHEIBLE: You're the sign person so you'd know.

MR. FORREST: Although I don't go by it as often as you do, we've had this discussion, I told him that every town that I work in has a different set on it. Usually the standard is anywhere from six to 12 seconds in between which visible at 150 feet as you ride by that gives you an opportunity to read one message. I believe the one that the town's put up is about six or seven seconds in between but if it's longer, it's longer. At this point, I think he was just waiting for the direction of how often. Unfortunately for him, he

didn't change it after he downloaded and it was going crazy.

MR. CHANIN: Can I ask you do you know what the dimensions of the sign that was damaged was?

MR. FORREST: This sign is slightly smaller than the one he had.

MR. CHANIN: What are the dimensions of the new?

MR. FORREST: New sign is six foot three wide.

MR. CHANIN: I'm sorry, say again.

MR. FORREST: Six foot three inches wide and eight foot tall. So we're right in at about 50 square feet. I think it was at 56 if I'm not mistaken the original sign.

MR. CHANIN: Those are slightly smaller than the sign that's being replaced?

MR. FORREST: Yes.

MR. CHANIN: The new sign is smaller than the old one?

MR. FORREST: Yes, yes. And again, the purpose of that and I explained to him is to keep the little signs from being stuck on the outside of the road every time he wants, you know, to say something out there and I know they have that across the street and it gets a little too busy so--

MR. CHANIN: And the source of the illumination will be internal?

MR. FORREST: Yes, the directory portion with the panels in it is internally illuminated, fluorescent bulbs and the electronic reader board are LED pixels and they're water tight, waterproof. This particular unit is, will not, I don't know if you ever saw one that kind of shorted out and only half the letters light, kind of looks like Arabic writing on it. We don't, he paid top dollar to get the best unit made in the United States.

MR. CHANIN: Now, to your knowledge, do you know if the owner of the property or anybody else for that matter received any complaints from members of the public

regarding an obstruction of view or hazard presented to pedestrian or vehicles?

MR. FORREST: No. The only comments that he's shared with me and while I've been in there visiting him putting this together was a lot of people saying nice sign, you know, nobody complaining.

MR. CHANIN: Would it be fair for us to assume that if the old sign did not generate any objections about obstruction of view or its size or design or appearance or aesthetics, would it be fair to assume that since the new sign is slightly smaller it's reasonable to anticipate that there should be no objections to the new sign? Is that reasonable?

MR. FORREST: I think that's very reason and we're surrounded by other commercial properties with signage.

MR. CHANIN: Didn't you tell us last time you were here that across the street is a gas station?

MR. FORREST: If you're facing the street it's north of there, it's also a client of mine is a gas station across the street and also is a shopping center with about eight stores in it.

MR. SCHEIBLE: Pawn shop.

MR. FORREST: Yeah.

MR. SCHEIBLE: Since this is new to not only myself but I'm sure the other board members and it's getting to be an upcoming type of signage and it will appear probably more and more, do we have a code in place? Is there such a code in place that governs the type of sign and how often it can flash within a minute or two minutes, six minutes or so forth, is there such a code?

MRS. GALLAGHER: No.

MR. FORREST: Towns are just starting to do that.

MR. SCHEIBLE: Like I just said, this is something, you know, it's up and coming, I have no problem with the signs but I just want to make sure that we're all falling within code, you know, or that we approve anything like that that's in code, I want to make sure how do we--

MR. CHANIN: You want to do your public hearing now? Board members have any other question or comments?

MR. BEDETTI: No, I have no other comment or questions other than are we going to address that extra panel that's going in there?

MS. FORREST: It was part of the sign application, it wasn't something that was added. If you look at the directory portion of it, it was for three that he might add an additional store in his building but because it wasn't being used apparently the business behind it and I'm sorry I can't remember what it was, there's a building down below asked if he could put his name on it. Client didn't think it was a problem.

MR. CHANIN: The board should assume if you approve the application that sooner or later the blank space on the sign will be filled in.

MR. BEDETTI: I guess the only question I have, I think our code says that, I don't have any objection to that panel being used by the property owner, but I think our code says that you cannot place a sign on someone else's property. So, you know, I don't know that it would be a good idea to include the sign for the gentleman who's on another piece of property.

MS. FORREST: I explained that to him.

MR. BEDETTI: In your application, this has nothing to do with the use of that panel. You can use the panel if somebody moves in in your area where you're supplying this sign for but I think there's a code violation for someone to put a sign on somebody else's property.

MS. FORREST: He's aware of that.

MR. CHANIN: Without their permission, without their permission there are certain--

MR. SCHEIBLE: So we'll just go through a, for instance, P & P which is not on their property, it's a separate piece of property but, P & P Auto Sales and Towing is located behind Preet and the pizza, the deli and the smoke shop are all owned by Preet but the P & P Auto that's another section, another piece of property, has nothing to do with his property that's located behind his building.

MR. FORREST: Correct.

MR. SCHEIBLE: Now my question there is for you to answer.

MR. CHANIN: I just want to respectfully suggest to the board and I'm not the town attorney but I think that restricting too much, especially through the mechanism of the zoning board variance decision what can and cannot be put on a sign begins to implicate some First Amendment issues as well as some property rights. So I don't want to make a specific reference to any existing or proposed sections of the Town Code but I think that it is limited to this board's discretion and decision. In this particular case, you certainly have the right to insist that people comply with the existing Town Code but I would respectfully recommend that you be conservative when you're imposing restrictions on exactly what the sign can and cannot contain because that First Amendment is a very powerful amendment.

MR. FORREST: And I did explain to him about the section in the ordinance that says if it's a separate tax parcel you're not supposed to post signage and he's willing to remove it. He just figured it was empty and wanted to be a nice guy, he said if it has to come off it's just vinyl, it will come off.

MR. CHANIN: Do you want to hold your public hearing?

MR. SCHEIBLE: At this point in time, I would love to open up the public hearing to anyone who has anything to say. Hello? No? No one is here. Since no one is here tonight we'll--

MR. CHANIN: Do the mailings.

MR. SCHEIBLE: -- listen to the mailings.

MRS. AMMIRATI: On the 27th day of August, I compared 14 addressed envelopes containing the public hearing notice with no responses.

MR. CHANIN: Any other board comments or questions? Is there a motion?

MR. HAMEL: I'll make a motion that we grant Aryan, Inc. the variance as requested for the sign.

MR. CHANIN: Now, Miss Forrest, you heard my speech before. There's only three board members here tonight. You have the choice of whether or not you want to go forward and hope that you get a unanimous vote or if you wish you can ask that this be heard on another night.

MR. FORREST: I will proceed.

MR. BEDETTI: I have a question. Are we going to include a recommendation for the interval between flashing?

MR. FORREST: Well, you may if you wish or you can include specifically in the decision that you're going to refer and delegate to the building department or the town engineer or any other town employee with technical knowledge and opinion the right to impose on the applicant the appropriate interval.

MRS. GALLAGHER: I think speaking as the building inspector that we would definitely like your opinion on it. If you're going to refer it to us, I'd definitely like your opinion, you're the gentlemen that are approving the variance so we would definitely like that. And also I want to know what you guys would like us to do with the P & P Auto Sales, it's a code violation. If you'd like us, she can talk to him as well but we can also call him and ask him to remove it and I don't think he'll have a problem with it either.

MR. FORREST: No, I can take it up when I see him, no problem.

MR. CHANIN: So then if I understand your sentiments correctly then what you'd like to do if this is part of your motion--

MR. BEDETTI: I didn't make the motion.

MR. CHANIN: If this is part of your motion to approve it and you haven't voted on it yet and there's been no second yet but if you wish to make the motion to include a seven second interval and a requirement that the sign at all times be and remain in compliance with the Town Code, including the provision that we were referring to earlier but it has to be the property itself, not someone else's property then that can be part of your motion.

MR. HAMEL: Can I make a comment? If I remember correctly when we approved the sign at the new Wal-Mart and I think it was something like 20 to 25 seconds is what we told them and it looks like it's flashing more than that, my opinion, I don't stand there.

MR. BEDETTI: It does, you're right.

MR. HAMEL: I'm not sure whether that's, you know, I think it's the same type of a sign and everything else.

MR. FORREST: Yeah, that's extremely long in the scheme of things.

MR. HAMEL: It's a very busy intersection, it's right by the Five Corners and that was the reasoning for that.

MR. CHANIN: If you want to, what you can do is impose a requirement that the flashing interval be no shorter than seven and no longer than the top number that you want to put in there.

MR. BEDETTI: Well, again, my personal opinion, I don't think it should flash anymore frequently than 15 second interval, no shorter than 15 seconds, that's my opinion.

MR. HAMEL: I agree.

MR. CHANIN: Is there a top number you want to put on there?

MR. BEDETTI: Well, I mean, the top number would be a non-flashing and, you know, I would just rather put just a minimum.

MR. SCHEIBLE: Just put--

MR. BEDETTI: No less than 15 seconds.

MR. SCHEIBLE: An input on the 15 seconds, if you just get a piece of paper and figure it out, you're traveling quarter of a mile, you're traveling a quarter of a mile, I'm just, you know, I'm not objecting to what you're saying. I'm just saying that there's a, that's quite a big space in between when you figure a quarter of a mile you're traveling if you're going to see it or not going to see it, you're passed it.

MR. BEDETTI: You mean at 60 miles an hour?

MR. CHANIN: Alright, so if I understand the motion correctly and Mr. Hamel you tell me if I've got it right or wrong, there's a motion to approve the application including with no more frequently than a 15 second interval between flashes and also with the requirement that the sign at all times be in compliance with the requirements of the Town Code. Is that correct, Mr. Hamel?

MR. HAMEL: Yes.

MR. BEDETTI: I second that.

ROLL CALL

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

MR. FORREST: Thank you.

FORMAL DECISIONS:

1. Kelly Shalian

MR. CHANIN: The board has before it a proposed formal decision in the matter that was heard last meeting in the application of Kelly Shalian, application number 13-11. Does the board wish to approve that?

MR. BEDETTI: I'll make a motion that we approve the formal decision for Kelly Shalian identified as 13-11 as written and distributed by e-mail.

MR. HAMEL: I'll second that.

ROLL CALL

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

DISCUSSION

MR. CHANIN: Last item of business except for taking note that our next meeting is going to be on September 23, is that in my perpetually annoying way I have photocopied for your pleasurable reading a very interesting case which was decided in 2012 and it is the matter of the Tuxedo Land Trust, Inc. suing the Town of Tuxedo Town Board and the planning board and the building inspector. And I want to provide you guys with a copy of this decision because it was a dismissal of the lawsuit filed by the Tuxedo Land Trust against the town and the various boards. And among the different grounds upon which the court dismissed the lawsuit was the fact that they found that the Tuxedo Land Trust did not have standing. And we have run into that before. So as part of your continuing legal education, I provide you with copies of this decision and Mr. Chairman, your meeting may be over.

MR. HAMEL: So moved.

MR. BEDETTI: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth  
Stenographer