

**Town of Southeast  
Zoning Board of Appeals  
Minutes of March 15, 2021**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Absent
Roderick Cassidy	Present
Greg Wunner	Present
John McNeill	Present
Steve Corozine	Present
Andres Gil	Present
Ashley Ley, Town Planner	Present
Will Stephens, Jr., Town Counsel	Present
Victoria Desidero, Board Secretary	Present
JoAnne Ciralli, Assistant Secretary	Absent

**Work Session:**

**Regular Session:**

**Secretary Victoria Desidero:** If you're a guest on the call and you're waiting to be heard, please mute yourselves. (Pause.) Good.

**Chairman Froessel:** OK. It looks like we've got everybody out of the waiting room and into the... the conference. So, I guess we can get started. We will start as we customarily do with the Pledge of Allegiance. Ashley, if you've got the flag to put up?

**Town Planner Ashley Ley:** Yes.

**Unknown:** (Inaudible.)

Pledge of Allegiance.

**Chairman Froessel:** OK. Good evening everybody. Welcome to the March 2021 meeting of the Town of Southeast Zoning Board of Appeals. My name is Tim Froessel. I'm the Chairman of the Zoning Board. Our Vice Chairman Paul Vink is not going to be joining us this evening. I will likely deputize Boardmember Rod Cassidy to serve as our temporary Vice Chairman tonight. In order to comply with the Governor's executive order that permits us to do these meetings by videoconference as opposed to in person, I'm just going to do a roll call of all of the Board members and I'll just ask you to say 'present' to indicate that you are in attendance. (Roll Call Taken. Results above). OK and Vice Chairman Vink, as I mentioned, is not present on the conference today. So, we have six members of our seven. We have a quorum and we can proceed. We originally had eight applicants on tonight. The first two have been adjourned to April. The remaining items on tonight's agenda are number three, Brewster Ford; number four, Louis Sclafani/Valero; number five, DRC Group of NY LLC; number six, Desmond Turner; number seven, Tuz, and number eight, Alan Craig Levy and Elana Wichler.

**1. Brewster Ford, 1024 Route 22, Tax Map ID 68.5-2-32**

Continued Public Hearing to review an application for a shed that requires the following variance: west side setback variance of 1 ft. where 34 ft. is proposed and 35 ft. is required. Jamie LoGiudice of Insite Engineering represented the application.

**Chairman Froessel:** So, without further ado, let's start with Brewster Ford. I don't know who's here on behalf of that application.

**Ms. Desidero:** Jamie LoGiudice.

**Jamie LoGiudice:** Hi, everyone. Good evening. Jamie LoGiudice from Insite Engineering, Surveying, and Landscape Architecture.

**Chairman Froessel:** Hi. How are you?

**Ms. LoGiudice:** Good. How are you?

**Chairman Froessel:** I'm fine. OK. So, last month, we granted your variance on the garbage enclosure.

**Ms. LoGiudice:** Yes.

**Chairman Froessel:** And we wanted to hear some more from you on the issue of the shed.

**Ms. LoGiudice:** Yes.

**Chairman Froessel:** We received a letter from Insite Engineering on February 23, 2021 explaining sort of the origin of the shed and... and in particular why it has that... that vent in the roof.

**Ms. LoGiudice:** Yes.

**Chairman Froessel:** And with... and with photographs, and, Victoria, those should be part of the record on this application.

**Ms. Desidero:** Yes, they are and I believe Ashley put them up.

**Chairman Froessel:** OK. I'll just remind you that you're still under oath from last month.

**Ms. LoGiudice:** Yes. Thank you.

**Chairman Froessel:** So, in addition to what's in your letter and the photographs, is there anything you want to add with respect to the application on... on the shed?

**Ms. LoGiudice:** No, not... not really. I mean I think we've... we've provided some additional views. We just wanted to point out in the photos, unfortunately, there was a ton of snow on the ground when we were... basically after we left the last meeting, but I just wanted to point out, you know, the shed itself has limited visibility on it from Argonne Road. So, there, you know, there's not a lot of area where you can see it, and really, you're going to see mostly the top of it... the top back portion of it, but, again, yes. The... The vent was for, like, their maintenance of the... I'm sorry to vent out areas for their... their lawn maintenance equipment, smaller equipment and they had a... like compressors and things in there before, and that was the reasoning for the... the vent. So, it's probably a little overkill at this point, but it... it's there. I think for them just to take the... the vent off, it may cause leaking issues or whatever moving forward. So, I think we provided the additional information you had requested unless anyone had any other questions for me.

**Chairman Froessel:** I'll open it up to the Boardmembers. Does anyone have any questions? (Pause.) I'm not hearing any. So, I... I mean I think the... the vent in the roof raised some questions about what the shed was used for and what its purpose was. I think the letter answers the questions. I'm... I'm satisfied. By the lack of questions from other Board members, I'm assuming that everyone else is satisfied, too. If anyone isn't, please speak up. And also, I hadn't realized it before but I... I noticed from the pictures that the... the Harvest Plumbing building has no windows on that side of the building.

**Ms. LoGiudice:** Right. Right.

**Chairman Froessel:** So, it's really not even visible to them from... from inside of the building.

**Ms. LoGiudice:** Right. Exactly, and even where their parking is, it's a little bit further than... you see, that their overhang... their... the front of their façade is... it's... it's literally on the other side, and in front of their building a little more. So, I mean, you literally would have to maybe stand on your car to see it from their parking lot, especially with the 6 ft. high stockade fence in the way.

**Chairman Froessel:** OK. Yeah.

**Ms. LoGiudice:** Looking downhill.

**Chairman Froessel:** And if I'm... if my recollection is correct, the shed needs a 1 ft. variance, correct?

**Ms. LoGiudice:** Yes.

**Chairman Froessel:** Is that right? That's right. This was a referral from the Planning Board.

**Ms. LoGiudice:** Yes. So, that... this originated also from the need for a field change. We were basically going for our project close out and a couple of the items were new, one being the shed and then the dumpster enclosure being the other portion, and then not meeting the setbacks. So, these were referred to your Board as a field change.

**Chairman Froessel:** OK.

**Ms. LoGiudice:** As part of a field change.

**Chairman Froessel:** OK. Sure. Is there any member of the public, i.e., not members of the Zoning Board, who has any questions or comments about this application? (Pause.) I... it appears not. I hear silence. I'll give... I'll give it another minute just in case there's anybody muted who wants to speak but it doesn't seem like it. (Pause.) OK. I'm going to take a little extra time tonight because we have a lot of people on this conference, so... OK and none of the Board members have any questions. So I guess we can close the Public Hearing and go to a vote on this, and before I do that, do you have any final comments or statements you'd like to make in support of the application?

**Ms. LoGiudice:** No. I think I'm all set. Thank you.

**Chairman Froessel:** OK. Do you feel you've been given a fair and adequate opportunity to present your application?

**Ms. LoGiudice:** Yes. Thank you.

**Chairman Froessel:** OK. Thank you. All right. So, the Public Hearing's closed, and among the Board members, doesn't sound like there's much to deliberate, but I will entertain any motion anyone would care to make on this application.

The motion to grant the shed variance for the west side setback of 1 ft. where 34 ft. is proposed and 35 ft. is required was introduced by Boardmember Cassidy and seconded by Boardmember Gil. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood.  
Absolutely not. It's completely consistent with the character of the neighborhood. It matches the other buildings.
2. Whether the benefit sought by the applicant can be achieved by some method.  
Well, no, not really. We went through that analysis last week and there really is no way to do it other than to get rid of the shed altogether.
3. Whether the requested variance is substantial.  
Absolutely not. It's only a single foot.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood.  
Absolutely not. It's completely consistent with the neighborhood and there's been no testimony to suggest that it would have any detrimental effect at all.
5. Whether the alleged difficulty was self-created.  
Well, only to the extent that they need to keep the shed on the property.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent

**Chairman Froessel:** So, the variance is granted, six votes to zero, and Victoria will prepare the appropriate report to the Planning Board and we'll get that over to them probably within a day or two.

**Ms. LoGiudice:** Great. Thank you very much everyone. Have a great night.

**Chairman Froessel:** You're welcome. Thank you.

**Ms. LoGiudice:** Goodbye.

**2. Louis Sclafani/Valero, Route 22, Tax Map ID 46.-3-16**

**Chairman Froessel:** OK. Next on the agenda, number four, Louis Sclafani and Valero.

**Ms. Desidero:** Mr. Chairman, I'm not sure who is here representing the applicant. If somebody is on, could you raise your hand or give us some indication that you are representing this application? It's a sign company and I don't know the people. I was expecting someone named Sara but I do not see a Sara.

**Chairman Froessel:** Someone just entered the waiting room.

**Ms. Desidero:** Yeah. I'm just letting them in. (Pause.)

**Chairman Froessel:** OK. Are they still in the waiting room?

**Ms. Desidero:** It says 'joining' but they don't seem to be here yet. (Pause.) I... I'm not sure what's taking so long but... and I'm not sure that's who we're waiting for. So, if you want to go on, we could come back to it.

**Chairman Froessel:** Yeah. I guess so. Going once, going twice, anyone here for Louis Sclafani/Valero? (Pause.) All right. We'll pass that application and come back to it.

**3. DRC Group of New York LLC, 188 Joe's Hill Road, Tax Map ID 58.-1-42**

Public Hearing to review an application for an existing single-family dwelling that requires a south side setback variance of 44.4 ft. where 56.6 ft. is existing and 100 ft. is required. Joel Greenberg represented the application.

**Chairman Froessel:** OK. Number five, DRC Group of New York LLC. Anyone here on that application?

**Ms. Desidero:** That would be Mr. Greenberg

**Chairman Froessel:** OK. Good evening. You're muted, sir.

**Joel Greenberg:** Can you hear me now?

**Chairman Froessel:** Yes, we can.

**Mr. Greenberg:** OK. It is... this is a parcel of property approximately 14.7 acres right off Joe's Hill Road. There was Health Department approval and Building Department. That was back in 1999, and the permit was issued, the house was built, the Certificate of Occupancy was never

issued and it's been vacant since then. There was never... it was never occupied, and if you know the area at all, unfortunately, it's been vandalized pretty heavily over the last 20 some odd years. However, in the... in the interim the Zoning has changed. Obviously, when it was built, the setback that you see there now is what was permitted. However, in the interim, the Zoning changed to require a 100 ft. setback for the house. My client has purchased the house. Obviously, it's more protected now than it was over the last 20 years, and the... the vandalism has dissipated quite a bit. So, that basically the... if you look at the Building Inspector's referral on that, the requirement, of course, is 100 ft. The closest point of the house is 56.6 ft., needing a variance of 44.4 ft. Just to give you some perspective, we did an analysis of where the closest... yes, thank you... we did an analysis of where the closest house was to this property. From the closest point, which again is 56.6 ft., the closest house is way up over here and it was the... we took a measurement and between the two houses, it's a little over 190 ft. So, while our house is obviously non-conforming but was conforming at the time it was built, we obviously would like to obtain the variance so that we can continue and make necessary reports and submissions to the Building Inspector so we can finish the house. As I mentioned, if you look at my arrow here, this is approximately where the closest house is, so, and also, if you've been in the area, the area from this house to this house, there's a tremendous rise in the... in the site. So, this house is way above... elevation-wise way above the house that we're... the house that's there and we're proposing to complete. Just to very quickly go over the criteria for the variances...

**Boardmember Cassidy:** If I could interrupt for just a moment? Mr. Chairman, do we want Mr. Greenberg to be sworn in?

**Chairman Froessel:** Oh, we do. I... I neglected to... to do that. Mr. Cassidy, would you be kind enough to swear in Mr. Greenberg?

**Boardmember Cassidy:** Mr. Greenberg, would you raise your right hand for me please? And do you swear that the testimony you are about to give and have given is the truth to the best of your knowledge?

**Mr. Greenberg:** I do.

**Boardmember Cassidy:** Fantastic. I'm so sorry. Please continue.

**Mr. Greenberg:** It's OK. One... one criteria is an undesirable change would be produced in the character of the neighborhood. Again, the location of this house is way, way off, hundreds and hundreds of feet off Joe's Hill Road. as I mentioned, the closest house is at a much higher elevation and over 190 ft. away. Obviously, the house is already there so there is... cannot be achieved by any other method than an area variance. Is it substantial? Well, when the house was built, it was not substantial. It conformed. So, yes, the 56 versus the 100 ft. is requiring a variance of about 44 ft. And four, it would have certainly no physical or environmental effect on the neighborhood at all. Again, it's on a 14.7-acre site. And whether the alleged difficulty was self-created, it was not because the house when it was built back in 1999-2000 was conforming, and then it was abandoned, and, you know, it's been abandoned now for over... over 20 years, and, of course, the Zoning has changed. So, we respectfully request a variance, area variance of 44.4 ft. I'll answer any questions if you have them.

**Chairman Froessel:** I... I have several. You reference an existing dwelling. So, a house was built pursuant to the permit that was granted back in 1999?

**Mr. Greenberg:** Correct.

**Chairman Froessel:** And was it completed?

**Mr. Greenberg:** No.

**Chairman Froessel:** So, what... what's there now? Is it just a frame?

**Mr. Greenberg:** Oh, no, no, it's enclosed and its weather protected, but over the years a lot of vandalism happened, a lot of windows were broken. As you can see, there it is and there's the house way above us and the mechanical systems and the plumbing were roughed in but were never finished. Same thing with the electrical. There's an electrical panel there now but it was never hooked up and completed. So, the house was incomplete, never obtained and could never obtain a Certificate of Occupancy, and then for some reason it's just been abandoned all these years to the delight of people who've gone there to vandalize it. But now it's protected and it's a... if you've been by it, it's a beautiful home and I think it would be an asset to the neighborhood and obviously well-kept and well-manicured as far as the landscaping is concerned, and obviously, the vandalism has ceased.

**Chairman Froessel:** OK. So, just so I have the procedure correct here, your clients have... have applied for Building Permits to do some work to this house and as a result of that, they had to apply for the variance because of the... the Zoning change?

**Mr. Greenberg:** Absolutely correct. Yes.

**Chairman Froessel:** OK. All right. That's fine. I just wanted to understand the... the background and how it got to us.

**Mr. Greenberg:** OK.

**Chairman Froessel:** OK. Any of the other Board members have any questions for Mr. Greenberg?

**Boardmember Corozine:** Yes. Mr. Greenberg, what is the size of the house?

**Mr. Greenberg:** Well, it's on... excuse me, it is two stories in height with certain areas that are two stories high. The approximate area of the entire house, as you can see from the configuration, there's also at the... right over here, this is a three-car garage. So, this portion here is the house here. It's approximately 4,000 sq. ft.

**Boardmember Corozine:** Thank you.

**Mr. Greenberg:** You're welcome.

**Chairman Froessel:** Any other questions?

**Boardmember McNeill:** I... I... I'd just like to add that I'm familiar with this site, and I'm happy someone has finally come forward to... to develop this site. It's... it's actually a beautiful lot. It's on Joe's Hill Road, which I'm sure a lot of the Board members are familiar with, and, you know, it... it just fell under disrepair, and as the applicant said, you know, there was copper put in there then it was ripped out. Kids were in there. It became a real eyesore there for a while. So... but all-in-all, it is a beautiful site and I'm glad that somebody has come forward to, you know, take over this property and... and bring it to fruition.

**Mr. Greenberg:** Thank you very much. That's exactly what we are... what we're planning to do.

**Chairman Froessel:** Any other questions from any of the Board members? (Pause.) No? Is there anyone else who's not a Board member that has any comments or questions about this application? (Pause.) Going between my two screens, I'm not seeing any... any hands. Looks like there are not any questions. OK.

**Boardmember Corozine:** I had an additional question, Tim.

**Chairman Froessel:** Sure.

**Boardmember Corozine:** Yeah. Question. In terms of mitigating the vandalism that you mentioned, are there fences or walls that have been built that are part of this property?

**Mr. Greenberg:** Well, what they've done is they put a security system in there now, which has actually stopped the vandalism, but it's a good point. The owner as soon as he, you know, was able to close on the property did put a security system in so since that there's been little or no... little or no vandalism on the property. Thank you for the question.

**Chairman Froessel:** I... I have a question. When was the original construction of the house started?

**Mr. Greenberg:** I believe... I believe it was in 19... I think it was... hold on, hold on a second. I believe it was 1999.

**Chairman Froessel:** So, it was when the permit was granted?

**Mr. Greenberg:** Well, the septic permit was... yes, it was granted just after the septic permit was granted in April of 1999. So, I'm assuming the permit was... was granted sometime after that... after the Health Department approval.

**Chairman Froessel:** OK. So, basically, this house has been sitting there in a sort of a derelict state for 20 years?

**Mr. Greenberg:** Correct.

**Chairman Froessel:** Wow! OK. Well, I'll ask the Board members. Are we comfortable voting on this tonight? Anybody feel like they need to go see it or... no?

**Boardmember McNeill:** I... I just have one more question. The... the septic system has still... it's still... because I know... I believe the septic system has already been installed here. Has it not?

**Mr. Greenberg:** It's very... it's a very good question that you just asked. Just before we... my client purchased it, we thought the same thing but we discovered unfortunately that the only thing that was... only improvement that was done was the drilling of the well. The septic system was never installed and, obviously, its... it was only good for two years. It was there in 19... it was approved in 1999 and expired in 19... excuse me, 2001, so we have to obviously renew it.

**Boardmember McNeill:** OK. So, the septic system was designed...

**Mr. Greenberg:** But never installed.

**Boardmember McNeill:** ...but never installed and that has since fallen... that... that... application has since fallen behind.

**Mr. Greenberg:** Right. Right. Correct. That's absolutely correct. So, if the variance is granted, then we will obviously apply back to the Health Department.

**Boardmember McNeill:** Have you... have you gone to the Health Department? Have you... have you gone...

**Mr. Greenberg:** Oh, yes, yes. What we did is they required testing. So, we... we've gone to the... had the Health Department come out to the site and we... we did some more testing to make sure everything was OK, and it passed all the tests.

**Boardmember McNeill:** You've completed your deep test and your perc test?

**Mr. Greenberg:** Yes.

**Boardmember McNeill:** And they passed?

**Mr. Greenberg:** Yes they did.

**Boardmember McNeill:** OK. So, you have... you have Board of Health approvals?

**Mr. Greenberg:** Well, we had all the testing done, and once we get the variance, we'll submit the application to the... to the Health Department. But all the testing has been done, perc test, deep test, (inaudible) absorbed everything and it's all approved... I mean, they approved the testing.

**Boardmember McNeill:** Sure. OK. Great. Thank you.

**Mr. Greenberg:** Thank you for your comments.

**Chairman Froessel:** OK. All right. So, I didn't see any objection to voting on this tonight.

Everybody's OK with that? I think so. All right. I see heads nodding. All right. OK. Mr.

Greenberg, I guess we'll go ahead and close the Public Hearing, and we'll vote, but before I do that, do you have any final comments you'd like to make in support of the application?

**Mr. Greenberg:** Actually, I think the Board members did. Mr. McNeill said it very well, that this has been an eyesore for many, many years. It's been vandalized for many, many years and I think... Hopefully by the end of this year, you'll have something that the Town can be very proud of and thank for your... for listening to my application.

**Chairman Froessel:** You're welcome. Do you feel you've been given a fair and adequate opportunity to present the application tonight?

**Mr. Greenberg:** Absolutely.

**Chairman Froessel:** OK. Thank you. So, with that, we'll close the Public Hearing. I'm open to any deliberation if the Board members want to deliberate this application before we vote on it. Otherwise, I'll entertain any motion if anyone would care to make a motion on this application.

The motion to grant the variance for the existing single-family dwelling of 44.5 ft. on the south side setback where 56.6 ft. is proposed and 100 ft. is required was introduced by Boardmember McNeill and seconded by Boardmember Gil. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by the granting of the area variance.  
Absolutely not. Again, this... this property... somehow it just fell through the cracks, and it was a well-intentioned property at the beginning and we're going back 20 years, but the house originally was within the Zoning requirements before they had changed them and, you know, subsequently as the years passed on, apparently the Zoning had changed up there and it was of no fault of the owner, but I'm glad to see that someone has come forward to proceed.
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance.  
No. Obviously, because the Zoning has changed, he had to come before our Board to get approval. So, this was really his only means of proceeding with the project.
3. Whether the requested area variance is substantial.  
Well, if... if you see the size of this lot, it's... it's quite large and, you know, in... in footage, yes, it is, but in reality of the entire project and the entire size of the property, I... I don't think so.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood.  
No. As probably most of us know, Joe's Hill Road is a very desirable area in the Town of Southeast and, again, this was just a property that somehow fell through the cracks. But it's a... it's a beautiful property, and I think when it's done, it will... it will absolutely benefit the community.
5. Whether the alleged difficulty was self-created.  
Well, you could say that but again this was, you know, this fell into something where a Zoning change was made that required the applicant to come to us. So, I think by... by granting this application, we will... You know... it'll... it'll... it'll improve a... the value of the properties there substantially.

Roll Call Vote:



G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent

**Chairman Froessel:** So, the variance is granted six votes to none. Mr. Greenberg, ordinarily, we would hand you your variance if we were meeting in person, but we're not. So, Victoria will prepare it. I'll sign it in the next day or two, and... and you'll have it in probably in... in two days or less.

**Mr. Greenberg:** Thank you very much and we look forward to a very attractive project for this Town. As John McNeill said, and for the... the neighborhood, too. Just one... one more thing: Happy St Patrick's Day.

**Chairman Froessel:** Thank you.

**Mr. Greenberg:** You're welcome.

**Chairman Froessel:** OK. So, moving right along, let me just clean up the papers from the (inaudible.)

**Mr. Greenberg:** Goodnight Victoria.

**Ms. Desidero:** Goodnight Joel.

#### **4. Desmond Turner, 84 Blueberry Drive, Tax Map ID 57.5-1-37**

Public Hearing to review an application for the proposed addition to a single-family dwelling that requires a north side setback variance of 5.9 ft. where 14.1 ft. is existing and 20 ft. is required. Desmond and Selena Turner represented the application and were sworn in.

**Chairman Froessel:** OK. Move on to applicant number six, Desmond Turner. Anyone here on that application?

**Desmond Turner:** I am.

**Chairman Froessel:** Hi. How are you?

**Mr. Turner:** Good. How's it going?

**Chairman Froessel:** I'm going to ask the Vice Chairman to please swear you in before we start your testimony.

**Mr. Turner:** OK.

**Boardmember Cassidy:** Mr. Turner, is the person next to you going to testify as well or just you?

**Mr. Turner:** Yes.

**Boardmember Cassidy:** If you can both raise your hands. Do you swear the testimony you're about to give is the truth to the best of your knowledge?

**Mr. & Mrs. Turner:** I do.

**Ms. Desidero:** May I have the name of the other person please?

**Mr. Turner:** Selena, Selena Turner. That's my wife.

**Ms. Desidero:** OK. Thank you.

**Mr. Turner:** Thank you.

**Chairman Froessel:** Great. Thank you. Before we start, I'm just going to mention for the record. We received a letter dated Tuesday, March 9<sup>th</sup>, 2021 from Joel and Christine Romero. They live at 80 Blueberry Drive. I assume they're your neighbors.

**Mr. Turner:** Yes.

**Chairman Froessel:** I won't read the whole thing into the record. We'll put the... the printed letter into the record but they have stated they are... they have no objection to your variance application. So, the record can reflect that. Why don't you go ahead and explain to us your application and... and what it is you'd like to do?

**Mr. Turner:** So, I recently purchased the property back in December, and we're looking to add a second story addition, but we need... we're requesting a variance of 5 ft. over something that exists, the existing frame that is, where 20 ft. is required. So, as you can see here, so that... to do a complete addition where it's covering the existing frame already, we just... we're requesting that 5 ft. to the left just to kind of complete our addition there.

**Chairman Froessel:** OK. Are you enlarging the footprint of the house?

**Mr. Turner:** No.

**Chairman Froessel:** OK. You're going straight up over the... the existing structure and not expanding out... outwards at all?

**Mr. Turner:** No, sir.

**Chairman Froessel:** OK. Do any of the Board members have any questions for the applicant? (Pause.) Guess not. Is there... is there anyone who's not a Board member that's on this videoconference that has any questions or comments about this application? (Pause.) Oh, I see someone's hand is up. Benjamin Torke? Is that it?

**Benjamin Torke:** Yeah. It's Torke'.

**Chairman Froessel:** OK.

**Mr. Torke:** Yeah. I just wanted to say that I'm the neighbor...

**Chairman Froessel:** Before you speak, let me just have the Vice Chairman swear you in.

**Mr. Torke:** Sure.

**Boardmember Cassidy:** Mr. Torke', do you swear the testimony you're about to give is the truth to the best of your knowledge?

**Mr. Torke:** Yes, I do.

**Chairman Froessel:** OK. Thank you. Go ahead.

**Mr. Torke:** I just wanted to say that I'm actually the neighbor immediately to the north so I think that's the side the variance is requested on, and I have no objections to it. I support the application. I just wanted to say that and I also wanted to welcome my new neighbors to the neighborhood and say that I look forward to... to meeting you guys when... when we have a chance.

**Mr. & Mrs. Turner:** Yeah. Thank you so much.

**Mr. Torke:** And that's all. That's all that I have.

**Chairman Froessel:** Very good. Thank you, Mr. Torke. OK. Are there any other comments or questions about this application? (Pause.) No? OK. I would ask the Board members: is everyone OK voting on this application this evening? (Pause.) I see nodding heads. I see no objection. OK. So, it looks like we're... we're... we're OK to vote on this tonight. OK. Mr. and Mrs. Turner, you probably observed it from the first couple of applications, but we'll close the Public Hearing and then the Board will take a vote. Before I do that, do you have any final questions or comments you'd like to make in support of your application?

**Mr. Turner:** We look forward to moving into the neighborhood and hope Mr. Torke' can help... help me build that treehouse that he has in the backyard. That's all. Thank you.

**Chairman Froessel:** OK. Do you feel you've been given a fair and adequate opportunity to present your application today?

**Mr. Turner:** Yes. I do.

**Chairman Froessel:** Great. Thank you. OK. So, with that, I will entertain any motion that anyone would care to make on this application... application.

The motion to grant the variance for the proposed addition to a single-family dwelling of 6 ft. for the north side setback where 14.1 ft. is existing and 20 ft. is required was introduced by Chairman Froessel and seconded by Boardmember Cassidy. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance.  
No, it will not present an undesirable change. The applicant is not expanding the footprint of the house at all. He's not getting any closer to the... to the property lines than the house already is and I am familiar with the neighborhood. I live not too far from there. There are a... a mix of houses there that include two story houses so this will not be out of the character of the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the actual variance.  
The answer is no because the... he's really seeking to legalize an existing... pre-existing non-conforming setback.
3. Whether the requested variance is substantial.  
Arguably, 6 ft. on... on a 20 ft. setback is substantial but again I think it's mitigated by the fact that this is a pre-existing non-conforming structure.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.  
There's no evidence of that.
5. Whether the alleged difficulty was self-created.  
I don't think it is self-created. I think that the applicant is looking to make an improvement on an existing house that is not in conformance with current Zoning and anything they wanted to do, essentially, they would need a variance.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent.

**Chairman Froessel:** So, the variance is granted six votes to none. Mr. and Mrs. Turner, we'll... we've got to go through a process where Victoria prepares the variance and then I sign it. We exchange all this stuff electronically because we're not meeting in person but you should have your variance within... within a day or two.

**Mr. & Mrs. Turner:** Thank you. Thank you so much.

**Chairman Froessel:** You're welcome. Have a good night.

**Mr. Turner:** Have a good night.

##### **5. Matthew & Andrea Tuz, 55 Bloomer Road, Tax Map ID 56.14-1-6**

Public Hearing to review an application for the construction of a new deck and repair of an existing deck that requires the following variances: for the east front setback, a variance of 11 ft. where 24 ft. is existing and 35 ft. is required; for the west rear setback, a variance of 14 ft. where 21 ft. is proposed and 35 ft. is required; for the north side setback, a variance of 5 ft. where 15 ft. is existing and 20 ft. is required; and for the total side setback, a variance of 10.1 ft. where 39.9 ft. is proposed and 50 ft. is required.

Stephanie Fox, architect, and Andrea Tuz represented the application.

**Chairman Froessel:** OK. Number seven on the agenda is Matthew and Andrea Tuz. I hope I'm pronouncing that correctly. Is anyone here on that application?

**Stephanie Fox:** Hi. Good evening. Stephanie Fox. I'm the architect for Andrea Tuz and Andrea's here as well.

**Chairman Froessel:** OK. I will have the Vice Chairman swear both of you in.

**Boardmember Cassidy:** Ladies, if you raise your right hands. Do you swear that the testimony you're about to give is the truth to the best of your knowledge?

**Ms. Fox:** I do.

**Andrea Tuz:** Yes.

**Boardmember Cassidy:** Thank you.

**Chairman Froessel:** OK. Why don't you go ahead and describe your application for us?

**Ms. Fox:** OK. The application is to extend a portion of an existing deck at 55 Bloomer Road. There are several variances that are being sought. The first is for an existing non-conforming condition of the east front yard where 35 ft. is required and 24 ft. is proposed. Like I said, that's an existing condition, and a variance of 11 ft. is required. There's a west rear yard variance required for 14 ft. where 21 ft. is proposed and 13 ft. is required. Could you go to the first page please? There's a north side variance which is also an existing condition that requires a 5 ft. variance where 15 ft. is proposed and 20 ft. is required, and then there's the total side yard variance requested where a 10.1 ft. variance is requested where 39.9 ft. is proposed and 50 ft. is required. I just wanted to note a few things about the site. Certainly, the biggest thing to notice is that the site is located in the R-20 residential district where the minimum lot area is 20,000 sq. ft. and this... this lot is just barely half of what the requirement is at just over 10,000 sq. ft. Additionally, for the R-20 zone, a lot width of 90 ft. is also deficient by 85 ft. You can see on the Site Plan here... you probably can't see my mouse... but you can see that the red line represents, you know, the actual allowable building envelope, and you can see that the house, the existing patio, and... well, and a portion of the existing deck is non-conforming. If also I could direct your attention to the aerial map in the upper right corner here where the site is boxed out. It should be noted that the area to the rear of the property is... I want to say it's partially Putnam Land Trust and utilities, so there's no development there, and there's no neighbors to that side. Also, if you would look at that aerial, in addition to my client's property, several of the neighboring properties have above ground pools with decks that all seem to be sort of in alignment with... with my neighbor's property. The reason why we're requesting to

extend the deck by 8 ft. is that if... the existing deck actually does not extend to the west side of the pool and it makes it very difficult for my client to actually clean the pool. She has to do somewhat of a balancing act and stand on the edge of the pool in order to clean that side. So, in addition to obviously having a little bit more space around the pool, it's just so that, you know, really that she can access that side, you know, to... for maintenance purposes. What else? Let me (inaudible.) You can see that there's already an existing deck around the pool. We're just looking to extend it 8 ft. on the west side. We chose 8 ft. because that's the common building module, most economical, and then also I just wanted to also address that there were three neighbors that submitted letters in... in favor of the application; Jessica Gruber at 55... 53 Bloomer Road, Kenneth Kern at 51 Bloomer Road, and Robert Lash at 50 Bloomer Road. All three of those neighbors are in favor of the application.

**Chairman Froessel:** If Bob Lash is in favor, you must be OK. (Laughter.)

**Ms. Fox:** So, I think that's about it.

**Chairman Froessel:** Victoria, do you have all of those letters? I only... I only have the one for Gruber.

**Ms. Desidero:** I... I do not. I... I got an email from Ms. Fox and it did say 'neighbor letters', but I believe I forwarded that to the Board and my recollection is that there was really only one attached.

**Ms. Fox:** Oh, do you need me to share my screen to show the others or no?

**Boardmember Corozine:** It would be helpful.

**Chairman Froessel:** It would be helpful and I'd like to have them in the record, too.

**Ms. Fox:** OK.

**Ms. Desidero:** All right. We'll have to give you the ability to share. Hang on one second. I'm going to make you co-host.

**Ms. Fox:** Oh, I feel so official.

**Ms. Desidero:** And Ashley, I don't know. Do you need to... oh, thank you. I will need copies of the letters also, Stephanie, for the... for the file.

**Ms. Fox:** Oh, certainly.

**Chairman Froessel:** As long as they're short, I'll read them into the record so that at least they're part of the record now that we vote on.

**Ms. Fox:** So, this is the first one.

**Chairman Froessel:** OK. I've got that one. We've got that one for the record. That's the Gruber letter.

**Ms. Fox:** This is the second one.

**Chairman Froessel:** The letter from Kenneth Kern... it's dated March 2021, no date, no day, just March 2021. It says: "Dear Chairman Froessel and Members of the Board, I have discussed the application at 55 Bloomer Road to repair and extend the existing deck around the pool with Andrea Tuz. We have no objection to the applicant... to the application" sorry... "and support your approval for the requested area variances. Sincerely, Kenneth C. Kern, 51 Bloomer Road."

**Ms. Fox:** And this is the third letter.

**Chairman Froessel:** OK, and this letter is also dated March 2021. It says: "Dear Chairman Froessel and Members of the Board, I have discussed the application at 55 Bloomer Road to repair and extend the existing deck around the pool with Andrea Tuz. We have no objection to the application and support your approval for the requested area variances. Sincerely, Robert S. Lash, 50 Bloomer Road, Brewster, New York."

**Ms. Fox:** If I might, I just want to address, you know, the criteria for granting the variance. The first is it in keeping with the character of the neighborhood? As previously stated, there

are many houses in the area that have above ground pools and decks similar to what we are proposing as well as the fact that these three neighbors are supporting the application on, you know, various sides of the property. Can the benefit be sought another way by the applicant? Unfortunately, due to the fact that the lot is so non-conforming and based on the siting of the existing house and pool, the deck needs access in order to clean the pool, and so, this is really the only option. If you were to expand the deck in really any other direction, it would also require a variance as there's already two existing non-conforming conditions that are requesting area variances in this application. Is the variance requested substantial? Well, several variances are requested. Based on the gross under-sizing of the lot, I don't feel that the variances are really that substantial in that the side yard variances being requested are existing, and the rear yard variance abuts an undeveloped parcel of land. Will there be any environmental impact from this application? No, because it's a deck primarily, and a deck is built above grade with two footings so the impact on the environment is very minimal. And was the difficulty self-created? Well, it's my client's, you know, wish to expand... extend her deck. The non-conformity of the lot size makes meeting the requirements... the Zoning Board... so the Zoning Code requirements very difficult.

**Chairman Froessel:** OK. Thank you, and I'll just throw in my observations that... as someone who lived in Brewster Heights for nine years. I'm familiar with the issues with lot sizes there. It's... it's... every lot in Brewster Heights is... is non-conforming, and it's impossible to do much of anything in Brewster Heights without getting a variance. And also, I'll just share my observation that on that side of Bloomer Road, as Ms. Fox mentioned, the houses back up to what is essentially open space. I doubt it will ever be developed. There's actually a pretty steep drop off that drops down to Route 6 and then the... and then the reservoir. So, there's really no one behind to be bothered by this. The most, you know, the most significant encroachment on a setback is probably the rear yard and there's no one behind them and there never will be. So, I... I think you've got the character of the neighborhood covered pretty well from my point of view. If any of the Board members have any questions or comments, please feel free to chime in.

**Boardmember Gil:** Mr. President, I... I didn't catch this at the last meeting that we were in. I think this matter was before us at the last meeting. Ms. Tuz... Andrea's a client of mine. I have to recuse myself from voting in this matter.

**Chairman Froessel:** OK.

**Boardmember Gil:** OK.

**Chairman Froessel:** Fair enough. OK. So, we have a recusal. That means we're down to five Board members to vote on this, and...

**Ms. Fox:** And is the majority out of the seven or is the majority out of the five?

**Chairman Froessel:** The majority remains out of the seven, so you need four positive votes no matter what.

**Ms. Fox:** OK.

**Boardmember Gil:** Unless, Mr. President, you don't think that this... that would be a conflict of interest. I don't represent her on this matter particularly, but she is a client of mine. So, I just want to, you know, make sure there's no appearance of impropriety.

**Chairman Froessel:** I'm not sure about the legal standard of that. I mean, I... it doesn't appear that you have any financial... vested financial interest in this application.

**Town Attorney Will Stephens:** Mr. Chairman, I think for the sake of propriety... I think Mr. Gil is wise in recusing himself in this matter because of his business relationship with the applicant.

**Chairman Froessel:** OK. That's fine. So, we'll have... we'll leave Andres' recusal in place and we'll go with the five. Typically, what happens when we... if we have a meeting and we only have four or five members present, we will give the applicant the option of deferring to the next month in the hope that there will be more Board members present out of which you could possibly get your four positive votes. I'll leave that up to you. I mean, with Andres' recusal, the most you would go from is... is five to six voting on the application. So, I'll leave that to your discretion. You can think it over, but it's an option for you if you'd like it.

**Ms. Fox:** OK, but I guess my biggest question is... is do... are there any other comments from members of the Board?

**Chairman Froessel:** Good question. I don't know. (Pause.) Nope. No comments.

**Ms. Fox:** I think we can go forward.

**Chairman Froessel:** OK. That's fine. Is there... is there anyone who's not on the Board on this videoconference that has any comments or questions about this application? (Pause.) Checking the screens here it looks like no. I'm not seeing anyone. OK. Board members comfortable voting on this this evening? Yes. I see heads nodding. OK. So, I think we're good to vote on this. OK. So, before I close the Public Hearing, do you have any final comments or statements you'd like to make in support of your application?

**Ms. Fox:** No. I think you've given me a great opportunity to present the case, and we appreciate your consideration.

**Chairman Froessel:** OK. Thanks. Do you feel you've been given a fair and adequate opportunity to present your application tonight?

**Ms. Fox:** Yes.

**Chairman Froessel:** OK. Thank you. OK. So, I'll... I'll throw it to the Board members. If anyone wants to deliberate this application, we can, or I'll entertain any motion that anyone would care to make.

The motion to grant the following variances for the construction of a new deck and repair of an existing deck: for the east front setback, a variance of 11 ft. where 24 ft. is existing and 35 ft. is required; for the west rear setback, a variance of 14 ft. where 21 ft. is proposed and 35 ft. is required; for the north side setback, a variance of 5 ft. where 15 ft. is existing and 20 ft. is required; and for the total side setback, a variance of 11 ft. where 39.9 ft. is proposed and 50 ft. is required was introduced by Boardmember Cassidy and seconded by Boardmember Corozine. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance.  
No, absolutely not. The pool is there. The deck is there. There's not going to be any change in the neighborhood, and there are other pools like it in the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the actual variance.  
Perhaps, but this seems to be the most appropriate... the most direct way to address the concerns and the need to clean the pool.
3. Whether the requested variance is substantial.  
In some aspects, it may be but it's not so overwhelmingly substantial that I think the application should be denied.

4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.  
Absolutely none. We've heard no testimony to that effect, and again, a deck is just a deck.
5. Whether the alleged difficulty was self-created.  
Well, it's only self-created to the extent that people with pools often want decks and there needs to be sufficient room to be able to service your pool.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	Recused
T. Froessel	In Favor

The motion to grant the variances as stated in the motion passed by a vote of 5 to 0 with 1 recused and 1 absent.

**Chairman Froessel:** So, that's five votes in favor and one recusal. \So, the variances are granted.

**Ms. Fox:** Thank you very much.

**Ms. Tuz:** Thank you.

**Chairman Froessel:** You're welcome. We'll... we'll get the paperwork put together in a day or two and... and then you'll have your variance and hopefully you can get started soon.

**Ms. Fox:** And Victoria, I'll send you those additional letters.

**Ms. Desidero:** OK. Thank you.

**Ms. Fox:** Thank you.

**Chairman Froessel:** Thanks very much. Have a good night.

**Ms. Fox:** You too.

**5. Alan Craig Levy & Elana Wichler, 56 Seven Oaks Lane, Tax Map ID 79.6-1-17**  
Public Hearing to review an application for the proposed addition of a portico to a single-family dwelling that requires a south front setback variance of 1.7 ft. where 48.3 ft. is proposed and 50 ft. is required. Alan Levy represented the application.

**Chairman Froessel:** All right. Number eight on the agenda is Alan Craig Levy and Elana Wichler. Is anyone here on that application?

**Alan Levy:** Yes, I am.

**Chairman Froessel:** Ah, good evening, sir. How are you?

**Mr. Levy:** I'm fine. How are you?

**Chairman Froessel:** Just fine. I ask you to please raise your right hand and let the Vice Chairman swear you in please.

**Boardmember Cassidy:** Mr. Levy, do you swear that the testimony you're about to give is the truth to the best of your knowledge?

**Mr. Levy:** I do.

**Boardmember Cassidy:** Thank you so much.



**Mr. Levy:** Thank you.

**Chairman Froessel:** OK. Before you start, Mr. Levy, I'm just going to make a note in the record that we received three e-mail messages from your neighbors in support of this application, and I won't read them in but Victoria, I assume you've got hard copies of them for the file. OK.

**Ms. Desidero:** I do.

**Chairman Froessel:** We received one on Wednesday, March 3<sup>rd</sup>, 2021 from Jack and Madelyn Kerrigan indicating that they have no objection to the application. They live at 58 Seven Oaks Lane. We received one on March 4<sup>th</sup>, 2021 from Sean and Melissa Armstrong who live at 57 Seven Oaks Lane indicating that they have no objection to the application, and we received another e-mail on March 4<sup>th</sup>, 2021 from Gail and Dennis Harrison who live at 67 Seven Oaks Lane indicating that they do not have any objection to this application. So, please tell us about this application that your neighbors are so enthusiastic about, Mr. Levy. (Laughter.)

**Mr. Levy:** Well, we've... we have an existing porch and we've just completed a lot of work on the house. We put a new roof on. We put new siding on, new doors, new windows and phase two or the last piece of the puzzle is adding a roof to the... to the existing porch. I... we're... we're going to re-do the entire porch, but there is a... there is a porch there that did not have a roof. So, this is... this is basically adding the... the portico roof and we've increased the size from the existing footprint by approximately 1 ft. or 1 ft. and maybe a little bit more than that in either direction. The only... the only... the only direction that's effected in terms of the variance is the, I believe you call it, the south side setback... or the south front setback.

**Chairman Froessel:** OK.

**Mr. Levy:** That's the house with all of the work that's been completed with the old... or what's left of the old front porch.

**Chairman Froessel:** OK, and you're just going to build a new front porch that's about that same width?

**Mr. Levy:** Yeah. It's approximately a foot wider and a foot deeper.

**Chairman Froessel:** OK.

**Mr. Levy:** The depth is the thing that's requiring the setback... or the variance, excuse me.

**Chairman Froessel:** OK. OK. According to the Building Inspector, you needed 1.7 ft. variance from the 50 ft. setback requirement.

**Mr. Levy:** Correct.

**Chairman Froessel:** OK. OK. (Pause.)

**Mr. Levy:** I seem to have lost the video here.

**Chairman Froessel:** Still there?

**Mr. Levy:** I'm here. Can you see me?

**Chairman Froessel:** Yes, we can.

**Mr. Levy:** I can't... I can see... I can see your pictures but I don't see if there's anything that you have up on the screen. I can't see anything.

**Chairman Froessel:** OK.

**Ms. Desidero:** Ashley's just showing the Site Plan, Mr. Levy.

**Mr. Levy:** Yeah. OK. For some reason, I can't see it.

**Chairman Froessel:** Yeah. OK. Do any of the members of the Board have any questions or comments for the applicant about this application? (Pause.) Hearing none, we're going to ask whether there is any member of the public on this Zoom conference that has any comments or questions about this application? (Pause.) Again, I hear none. OK.

**Ms. Desidero:** Just checking the chats, because...

**Chairman Froessel:** Fair enough.

**Ms. Desidero:** I don't see any.

**Chairman Froessel:** Checking my other screen.

**Mr. Levy:** Yeah. I got... I got you back again.

**Chairman Froessel:** OK. Good.

**Ms. Desidero:** I don't see any chats either.

**Chairman Froessel:** Nope. I don't see any either. So, I think we're good. OK. I... I guess these 1 and 2 ft. variances don't... don't get people too interested but that's a good thing.

**Mr. Levy:** Yes.

**Chairman Froessel:** Are the... I assume the Board members are all OK with voting on this tonight? (Pause.) OK. I see a lot of positive thumbs up and heads nodding, so that's good. OK. Mr. Levy, the way this works is we will close the Public Hearing and then we'll deliberate and... and/or vote, and before I do that, I just want to ask you if you have any other... any final statement or comment that you'd like to make in support of your application?

**Mr. Levy:** The only thing I would like to say is thank you for your time and consideration and your service.

**Chairman Froessel:** OK. Thank you. Do you feel you've been given a fair and adequate opportunity to present your application?

**Mr. Levy:** I do.

**Chairman Froessel:** OK. Great. OK. With that, the Public Hearing is closed. I'll entertain any deliberation that anyone might have on this 2 ft. variance or... or I'll entertain a motion.

The motion to grant the variance for the proposed addition of a portico to a single-family dwelling of 2 ft. for the south front setback where 48.3 ft. is proposed and 50 ft. is required was introduced by Chairman Froessel and seconded by Boardmember Wunner. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance.  
No. It's a minimal variance. It's only 2 ft. and judging by the comments we have from the neighbors, they're all in favor of it, and... and think it will be a benefit to the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the actual variance.  
I... I suppose you could make a smaller front portico but it... it would kind of throw off the aesthetics a little bit. Based upon where the house is built on the lot, I... I think they're going to need a... need a variance no matter what to do this particular improvement.
3. Whether the requested variance is substantial.  
No. It's 2 ft. on a... on a 50 ft. setback so it is not substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.  
No. There's no evidence of that.
5. Whether the alleged difficulty was self-created.  
Arguably, you could say it is. It's... it's a product of the... of the applicant wanting to, you know, improve the appearance of the front of his home and create a functional cover in the area of his front... front door. But I think, again I think, that that is mitigated by the fact that it only requires a variance of 2 ft.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent.

**Chairman Froessel:** So, that's six votes to zero and the applicant... the application is granted. So, Mr. Levy, we'll... it'll take us a day or two to put the paperwork together but you'll have your variance in a day or two and... and then you can get started.

**Mr. Levy:** Thank you so much. Very much appreciate it.

**Chairman Froessel:** You're welcome. Great. Have a good night.

**Mr. Levy:** Good night.

**2. Louis Sclafani/Valero, Route 22, Tax Map ID 46.-3-16**

Public Hearing to review an application for the proposed signage that requires the following variances: for Canopy Sign, 7 sq ft. variance where 23 sq. ft. is proposed and 16 sq. ft. is permitted; for Freestanding sign, size variance of 2 sq. ft. where 32 sq. ft. is proposed and 30 sq. ft. is permitted, setback variance of 7 ft. where 8 ft. is proposed and 15 ft. is required, and sign height variance of 1 ft. where 16 ft. is proposed and 15 ft. is permitted. Matt Kusewich represented the application.

**Chairman Froessel:** OK. Let's go back to the one matter we skipped because the applicant wasn't here. Is anyone here on Louis Sclafani/Valero, item number four? (Pause.) Oh, we have a hand up. Can you unmute yourself please?

**Matt Kusewich:** Yes.

**Chairman Froessel:** Are you...

**Mr. Kusewich:** Can you hear me now?

**Chairman Froessel:** ...you on the Sclafani/Valero application?

**Mr. Kusewich:** Yes, sir. Can you hear me?

**Chairman Froessel:** Yes.

**Mr. Kusewich:** OK. Yes, I'm acting on the owner's behalf.

**Chairman Froessel:** OK. Can you state your name please?

**Mr. Kusewich:** Matt Kusewich.

**Chairman Froessel:** Can you spell that please?

**Mr. Kusewich:** K-u-s-e-w-i-c-h.

**Chairman Froessel:** OK. All right, and I'll ask you to please raise your right hand and let the Vice Chairman or Acting Vice Chairman swear you in.

**Boardmember Cassidy:** Do you swear that the testimony you're about to give is the truth to the best of your knowledge?

**Mr. Kusewich:** I do.

**Boardmember Cassidy:** Thank you.

**Chairman Froessel:** OK. Thank you. Why don't you go ahead and describe your application to us please?

**Mr. Kusewich:** OK. So, what we're proposing is to utilize the existing sign pole at 1575 Route 22 in Brewster and replace that half of the cabinet that looks like it fell apart with a new sign head there. Our variance is for 2 sq. ft. on the sign; 30 is allowed. The sign is 32 sq. ft. The setback variance of 7 ft. or 8... 7 or 8 ft. and the sign height variance of 1 ft. where it's 16 ft. tall and 15 ft. is permitted.

**Chairman Froessel:** I know I looked at this when it came in but I'm... I'm drawing a blank. Which property is this?

**Unknown:** (Inaudible.)

**Mr. Kusewich:** It's an unbranded station right now. It's incomplete.

**Chairman Froessel:** Oh, this is what used to be the Mystic station, right?

**Mr. Kusewich:** I believe so. Yes.

**Chairman Froessel:** Oh, OK. I know it. It's across from the State Trooper barracks.

**Mr. Kusewich:** I believe you're correct.

**Chairman Froessel:** OK. Very good. All right. So, you're using for the... for the freestanding sign, you're using the existing signpost. Is that correct?

**Mr. Kusewich:** That is correct.

**Chairman Froessel:** OK and are you increasing the size of the sign that's on top of that signpost from what's currently there?

**Mr. Kusewich:** What's currently there was actually a five-by-eight, so it's... it's... it was... this is considerably smaller.

**Chairman Froessel:** OK.

**Mr. Kusewich:** So, that was 40 sq. ft. This is 32 so it's 8 sq. ft. less than what was actually there.

**Chairman Froessel:** OK.

**Mr. Kusewich:** And along with the sign that was on the pole that had the price on it, we... we're eliminating that and, you know, combining the combo head with the station and the LED pricer up... up at the top of the sign.

**Chairman Froessel:** OK. You're proposing a 16 ft. height sign. Is the one that's there now higher than 16 ft.?

**Mr. Kusewich:** It's... yes. It's 17 ft.

**Chairman Froessel:** OK. OK. Any members of the Board have any questions for the applicant?

**Boardmember Wunner:** I have... I have one quick question. (Pause.) Am I in?

**Chairman Froessel:** Yeah. Go ahead, Greg.

**Boardmember Wunner:** OK. Thank you. Have there been any variances for this sign in the past?

**Mr. Kusewich:** Not to my knowledge.

**Boardmember Wunner:** OK.

**Chairman Froessel:** OK. Oh, with respect to the canopy sign, are you changing the canopy itself or just the... the sign that's on the canopy?

**Mr. Kusewich:** The canopy's going to... You guys have the canopy layout drawing?

**Chairman Froessel:** Yes, I have it.

**Mr. Kusewich:** So, yes, the structure of the canopy is going to remain intact. We're going to do an overlay of the canopy with new... new ACM panels, aluminum composite.

**Chairman Froessel:** OK. (Pause.) And the... on the... is... is the signage on the canopy going to be illuminated?

**Mr. Kusewich:** Yes, it is.

**Chairman Froessel:** Am I looking at this correctly? Yes?

**Mr. Kusewich:** Yes.

**Chairman Froessel:** OK. OK. I'm sorry. I... I kind of cut off the questioning from the other Board members. If anyone has any other questions or comments, please feel free to chime in.

**Boardmember Corozine:** Yeah. I had one question, just a general clarification. On the second letter dated January 19<sup>th</sup> from Mike Levine, Building Inspector, there's a second line, freestanding sign setback and it states that 15 ft. is permitted but 8 ft. proposed. If that's the case, there would be no need for a variance. So, I'm just... maybe the numbers are reversed or something's... something's not aligned there correctly.

**Chairman Froessel:** Well, I think it means he's supposed to be 15 ft. from the edge of the property line but he's only 8 ft. from the edge of the property line, so he needs a 7 ft. variance.

**Boardmember Corozine:** Oh, OK. OK. He's... OK. Thanks, Tim.

**Chairman Froessel:** Actually, that's not uncommon. We see that on Route 22 because of the width... the easement for the right-of-way for the... for Route 22 is... is wider than the actual pavement on the road, so we tend to see the signs a little bit closer. Anyone else? Any questions?

**Boardmember Wunner:** The existing pole is not moving. Is that correct?

**Mr. Kusewich:** Correct. We want to keep it in place.

**Boardmember Wunner:** It's pre-existing non-conforming where it is.

**Mr. Kusewich:** Correct. Correct.

**Boardmember Wunner:** OK. Thank you.

**Boardmember Cassidy:** I... I have a question. Can you tell me how the sign's going to be illuminated? Is it purely going to be white light, interior white light and then the digital numbers?

**Mr. Kusewich:** Yes That is correct. White, LED illumination and then the... the LEDs would be an amber color for the pricer.

**Boardmember Gil:** I have several questions for you actually. This is Andres Gil, one of the members of the Board. So, my questions pertain to the actual execution of the plan. You know, I think the signs... just to make the record... I think the signs look 100 times better... what's being proposed looks 100 times better than what's there right now. However, with that said, if we're just replacing a pole or keeping the same pole and you need the variance to come into compliance with that, are you just going to plop a new sign onto an old nasty looking pole? Or is this like an actual improvement project that's going to have a... a holistic improvement to the property in general?

**Mr. Kusewich:** Yes. Yes. That is correct. We're going... we're going to utilize the pole that is there. It's going to be sanded, scraped, painted Valero thundercloud... thundercloud grey. The canopy is going to be refaced completely. The under of the canopy is going to be painted white. The column poles will be painted also grey and blue. The bollards will be painted blue to protect the pumps. The curbing around the pumps will be painted dark grey. Any site curbing coming into the property will be painted grey also. The building is going to be painted probably a two-tone grey also to match the Valero color. So, it's going to be a complete total transformation of the site, 100%, and going to look absolutely better than it does now.

**Boardmember Gil:** OK, and what about... are you guys doing anything with the pavement there too or is... or is that going to stay the way it is right now?

**Mr. Kusewich:** We don't... we don't usually touch... touch the pavement. That's up to the property owner or the distributor to if they want to make improvements to the pavement, seal

coating it or, you know, things like that or... or patching. We make recommendations to Valero to do that and then the distributor and Valero will come up with a solution if that's needed.

**Boardmember Gil:** OK. OK. All right, and what's the timeline of execution on this if you're approved... if you're approved today for the variance? Then I know you still need to clear a couple hurdles with the Town, but once you have those hurdles accomplished, what's your... what's your... what's your hard target for an execution and completion date?

**Mr. Kusewich:** Last year. (Laughter.) As soon as we get permitting and approvals, materials will be delivered in four weeks and then as soon as we receive all materials, we schedule it within one to two weeks.

**Boardmember Gil:** So, there's...

**Mr. Kusewich:** So, six weeks from time of permit approval.

**Boardmember Gil:** OK. That's the only questions I had.

**Chairman Froessel:** OK. Thanks, Andres. Anyone else? Any questions? Are there any members of the public on the videoconference that have any questions or comments about this application? (Pause.) Not seeing any, a couple of folks are muted.

**Ms. Desidero:** If you are on the call and you have a question, show us your hand. Raise your hand or send us a chat. I believe there's a couple of people on the call who don't have applications so...

**Chairman Froessel:** Yeah, I know. That's why I'm asking. It's a little curious. I want to make sure we give everybody a chance to speak who wants to.

**Ms. Desidero:** Just go like this if you want to speak.

**Chairman Froessel:** OK. Not seeing any... OK. Maybe we just have some Zoning Board fans. (Laughter.)

**Ms. Desidero:** Maybe.

**Boardmember Cassidy:** We're just a very popular group of people.

**Chairman Froessel:** Twenty-four years on this... on this Board, we ought to have some groupies by now. (Laughter.) OK. Are the Board members OK with voting on this tonight? Does anybody want to go see the property? (Pause.) No.

**Boardmember Gil:** I'm fine with voting on this tonight.

**Chairman Froessel:** Yeah. I mean, given the location, I've probably driven by it hundreds of times literally. OK. So, it sounds like everybody's OK with voting on this tonight. Mr. Kusewich, before we close the Public Hearing and take a vote, do you have any final statements you'd like to make in support of the application?

**Mr. Kusewich:** No. Thank you. I'm sorry. I apologize for not being able to hear you guys from before. I'm new to Zoom. I've never done this before. It's just... it's going to make the property, you know, 100% better than what it is now. I forgot to add in they're getting new gas pumps. So, the old pumps are going to be gone. You know, brand new pumps, brand new paint on everything. Like I said, it's going to be a complete transformation to the property. It's going to make it look, you know, 100 times better than what it is now. I appreciate your time and thank you for having me on here to argue the case.

**Chairman Froessel:** You're... you're welcome. It... it sounds like this... this sign is just part of an... an overall plan for a complete facelift for this property.

**Mr. Kusewich:** Correct. It is.

**Chairman Froessel:** OK. Great. Thank you. Do you feel you've been given a fair and adequate opportunity to present the application?

**Mr. Kusewich:** Yes, sir.

**Chairman Froessel:** OK. Great. Thank you. All right. With that, we'll close the Public Hearing. I'll entertain any... any deliberation if anybody has any comments they want to make or

deliberate this at all. We can do that. Otherwise, I'll entertain any motion anyone would care to make.

The motion to grant the multiple variances for proposed signage as follows: for Canopy Sign, 7 sq ft. variance where 23 sq. ft. is proposed and 16 sq. ft. is permitted; for Freestanding sign, size variance of 2 sq. ft. where 32 sq. ft. is proposed and 30 sq. ft. is permitted, setback variance of 7 ft. where 8 ft. is proposed and 15 ft. is required, and sign height variance of 1 ft. where 16 ft. is proposed and 15 ft. is permitted was introduced by Boardmember Gil and seconded by Boardmember Corozine. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance.  
So, after we close the record, the record seemed pretty thorough. We... I've... I've seen that property. The pictures... the photographs depict a... what the property looks like now and then from the testimony it's clear that this is going to be an improvement, and as required. The granting the canopy sign variance of 7 sq ft. variance where 23 sq. ft. is proposed and 16 sq. ft. is permitted; and also a Freestanding sign variance... a size variance of 2 sq. ft. where 32 sq. ft. is proposed and 30 sq. ft. is permitted, and a setback variance of 7 ft. where 8 ft. is proposed and 15 ft. is required, and a sign height variance of 1 ft. where 16 ft. is proposed and 15 ft. is permitted falls within the criteria. Asking ourselves, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting the variance? I believe it won't be. If anything, from the testimony that we've heard and also from our own personal knowledge of viewing the existing... what the existing property looks like, this is actually going to be a facelift for the area and on such a high visibility area on Route 22, a highly trafficked area within our community and within our Town, it has a positive impact on our Town.
2. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue other than the actual variance.  
I don't believe so. If anything, what we're doing here, the actual sign variance itself, is going to utilize the space that's available to put forth the corporate logos of this business going forward.
3. Whether the requested variance is substantial.  
I think, given the impact, it's not substantial. One is a 7 ft. variance, the other is a 2 ft. variance, another one is a 1 ft. variance. Yes, the other is a 7 ft. by 8... excuse me, 7 ft. variance where 8 ft. was proposed and 15 ft. was required. However, given the road and... and the testimony that we've heard... You know, any commercial property on that street is looking for a variance where the signs... signs are within the setback requirements for the highway area there. And, also, the... it's worth noting that the business is actually using... the petitioner is actually using the same space, the same pole structure that's currently existing and it's a non-conforming use.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.  
I think if anything the complete opposite. It's going to have a positive impact on... on the district and the neighborhood, which could tentatively have an increase in property value,

a positive increase in property value, for the neighbors and surrounding commercial properties.

5. Whether the alleged difficulty was self-created.

I mean, this one can be argued back and forth. However, with an area improvement, I don't think it's self-created in the sense that, you know, it's the replacing the wear and tear, the normal wear and tear of the existing structures, and how they've been corroded over time. And therefore, I think we're in compliance with all five variances, and I move to have the requested variances approved.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	In Favor
P. Vink	Absent
R. Cassidy	In Favor
S. Corozine	In Favor
A. Gil	In Favor
T. Froessel	In Favor

The motion to grant the variance as stated in the motion passed by a vote of 6 to 0 with 1 absent.

**Chairman Froessel:** So that's six votes in favor. Variance is granted. Mr. Kusewich, we'll... it takes us a day or two to do the paperwork because we're not in person, but the... the paperwork will be at the Building Department probably within... in two or three days, and you'll be able to order your materials and get going.

**Mr. Kusewich:** Perfect. I appreciate it. Thank you.

**Chairman Froessel:** OK. You're welcome.

**Mr. Kusewich:** Thank you for your time, gentlemen.

**Chairman Froessel:** Thank you. Good night.

**Mr. Kusewich:** Good night.

The motion to approve the Meeting Minutes of February 17, 2021 was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed all in favor.

The motion to adjourn the meeting was introduced by Chairman Froessel, seconded by Boardmember Cassidy and passed all in favor.

Respectfully submitted,  
Victoria Desidero  
JoAnne Ciralli

**FULL VIDEO RECORDING OF THIS MEETING AVAILABLE AT:** <https://www.southeast-ny.gov/335/Zoning-Board-of-Appeals-Audio-Files>