

**Town of Southeast
Zoning Board of Appeals
Minutes of June 17, 2019**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Roderick Cassidy	Present
Greg Wunner	Present
John McNeill	Absent
Steve Corozine	Present
Andres Gil	Present
Willis Stephens, Jr., Town Attorney	Present
Victoria Desidero, Secretary	Present
Cathy Chiudina, Assistant Secretary	Excused

Work Session:

Regular Session:

**1. Robert Nikaj / Nikaj Estates LLC
784-790 Route 312, Tax Map ID 46.-3-8**

Continued Public Hearing to review an application for a Use Variance to utilize an existing building for apartments and increase the number of dwelling units by 5 to allow a total of 28 dwelling units on the property where there are currently 23 dwelling units in an R-160 Zone. Robert Nikaj and Frank Annunziato of Hahn Engineering appeared before the Board.

Chairman Froessel: Mr. Nikaj, if you will come on up. Are you bringing us any testimony?

Mr. Nikaj: This is the architect.

Mr. Annunziato: Engineer.

Frank Annunziato of Hahn Engineering was sworn in and Mr. Nikaj was reminded he is still under oath.

Chairman Froessel: OK, so the last we met you were going to go get some more information, do a little bit more homework, and now you're back; that was two months ago.

Mr. Nikaj: Yes.

Chairman Froessel: So, what have you done since then?

Mr. Nikaj: I did some homework on my financing and I made some copies for everyone. The first page is when I bought the property. The second page is if I can't do this I am going to have a very hard time of keeping up with the business. The first page... the property was on the market for a few years and you see how bad it was. At that time they don't even have any mortgage, it was a problem a long time ago.

Chairman Froessel: Is this a document that was given to you by the seller of the property when you bought it?

Mr. Nikaj: Yes.

Chairman Froessel: OK.

Mr. Nikaj: I think you can see the date there. I think its 13? The last one I even have my taxes with me, is what I upgrade to date and what ends up by end of the year. There are like eight buildings, eight roofs, water tanks, and anything can go bad at any time. Like I told you, I pumped a lot of money from my other incomes just to bring it up to here and the reason I

bought it was I saw I could use the buildings the property has. I started the process four years ago with Insite Engineering. I went before Mike Levine (Building Inspector) for a meeting once, I have some paperwork for that too and they denied. I get in front of you guys if you can help me with that. It's going to be a big help for me because I jumped in and it's hard for me to get anything. You can see taxes went from 27 to 40+ and how was I to know it was going to go up the next year or the year after. I tried to keep it up but at end of the day there's not profit from this business and if you allow me to update this building that is going to be very helpful for me and provide me with much important income. More money for me and more work for contractors, electricians, plumbers or whoever is going to work there.

Boardmember Gil: Sir, I have a question for you: with regards to gross rental income I see you have stated here \$182,602; of that how many units is that for?

Mr. Nikaj: That's the 23 units.

Boardmember Gil: That's the 23 units?

Mr. Nikaj: Yes, half are studios. These here are \$600-700; it's not like having a big unit. Only two 2-bedrooms and like 3 or 4 one-bedroom. I mean one-bedroom is... but mostly studios.

Boardmember Gil: Of those 23 units and the \$182,602, you're seeking a permit for five... to essentially create five additional apartments in the vacant building. What is your anticipated return of net income for those five apartments?

Mr. Nikaj: If I did have these five units: one is going to be 2-bedroom and the rent will be close to \$1,400-1,500 for that. The other ones are one-bedrooms and their going to be \$1,200. This is going to help me survive because the way I'm working now if anything goes wrong it's... I put a lot of money into it since I started because I have my other business down there and...

Boardmember Gil: OK, so my question is: for the additional five units, what is your anticipated gross net income per year for those additional five units?

Mr. Nikaj: OK, it's going to be another \$5,000-6,000 a month income after they are fixed but to fix that I'm going to have to put at least another \$150,000 in.

Boardmember Gil: Let say it's \$6,000 a month x 12 months, that's...

Mr. Nikaj: That's like \$60,000 but it's always there's somebody moves in or out so it's not you know; real estate probably goes two to three months you can't rent it; it depends. That's why I'm looking forward to add this.

Boardmember Gil: Out of the expenses that you listed, your operating expenses, you listed \$9,023 as miscellaneous expenses: what do you categorize as miscellaneous expenses?

Mr. Nikaj: OK, I do a lot of work and replaced a few windows, doors, always...

Boardmember Gil: So, these aren't miscellaneous expenses, those are repairs to the property then?

Mr. Nikaj: I have to see this.

Boardmember Gil: In repairs you have \$27,000 a year in repairs. What kind of repairs are you doing for \$27,000 a year and of those repairs, do you have permits for those repairs for the \$27,000 if it's required?

Mr. Nikaj: If someone moves out I have to redo the bathroom, I have to do whatever it takes to keep up and maintain the place. Most of the money also I put in because it's not, you know, I start from the beginning. That's just the business because you see when I bought the property it didn't leave me anything.

Boardmember Gil: I'm just curious because the last time you were here you showed us pictures and maybe I'm just making the assumption where it did not look like from those pictures that you're putting \$27,000 a year into the property.

Mr. Nikaj: It doesn't look like it?

Boardmember Gil: I'm trying to figure out...

Mr. Nikaj: You're welcome to come visit the property anytime, it's five minutes from here.

Boardmember Gil: Sir, one of the criteria is that you cannot realize a reasonable return so out of that I'm trying to figure out from my perspective as a Board member, where the fees are going so you say that you spent \$27,000 a year on repairs; what type of repairs are you doing for \$27,000 a year to a property... what are you doing?

Mr. Nikaj: What I am doing is 23 units, it's eight buildings; always there's repairs there. It's leaking somewhere, repair; it's heating, it's a bathroom and paving the road. It's all kinds of repairs and maintenance.

Boardmember Gil: If you're repairing a roof right, you're not always going to need to repair the roof so you put a new roof on that lasts what 20 years or so?

Mr. Nikaj: I said repair. So far the roofs, one of them can go bad at any time. I have to stucco; you can see from the pictures there because that building was pretty rundown for 10 years nothing was done.

Boardmember Gil: OK, so what I'm trying to get at is with respect to your reasonable rate of return, you're showing that you have \$15,600 in maintenance and yet you describe that you have repairs of \$27,118 and from what you described what sounds like maintenance.

Mr. Nikaj: It is I mean you mix it around, you can put repair and maintenance, you don't see with there the snow blowing, you don't see there any garden, and you don't see management because I do myself. I have to get rid of to cut the expenses.

Boardmember Gil: What I'm trying to tell you or trying to ask you is for more detail than your list of expenses because from this Board member's position it doesn't seem like there's a detail, that the expenses are itemized appropriately to demonstrate that there is no reasonable rate of return.

Mr. Nikaj: I didn't bring the receipts and all these details. If you want I can try to provide you at the next meeting or so but you are putting me on the spot like, I don't know if you work in real estate or the construction business...

Boardmember Gil: Sir, I have several more series of questions along a different line. So, when you bought this property you were provided with the 2012 income statement, is that correct?

Mr. Nikaj: Yes.

Boardmember Gil: OK, so with this 2012 income statement and this was provided to you prior to the purchase of the property?

Mr. Nikaj: Yes.

Boardmember Gil: And prior to the purchase, when you purchased the property, the building in question that you want to refurbish into the five units; was that a vacant building at that time?

Mr. Nikaj: Yes, it was another vacant building at that time.

Boardmember Gil: So, at that time when you purchased this property you were aware of this frustration on property and that you weren't able to rent out that building for the five units?

Mr. Nikaj: I'm a contractor, that's the main thing. I saw a rundown property. I saw the potential there and that's why I went in and I put in money like every day there to come to this point.

Boardmember Gil: So, what I'm trying to figure out, from this Board member's perspective, it appears that if you were aware of the rate of return in 2012, I'm trying to figure out how and you might have the answer to this: how this is not a self-created hardship?

Mr. Nikaj: OK, I tell you. By basing on this, you see the management fees and a lot of other things. I cut them because I do it myself. That's why by adding this up and other side putting

in the work I make it able to come where I am today. I'm working there for five years, almost nonstop. I'm not a good speaker; I've never been in front of like this stuff. I apologize for that.

Boardmember Gil: You don't need to apologize; I'm just trying to get clear in my head with regard to the criteria.

Mr. Nikaj: You know how much it cost to do one bathroom or one roof or one wall or replace a window or door? I am contactor. And then if you see the property how it is, you're going to think... I thought I'm smart but because it was in market for three or four years. I think that was why people don't buy it because they don't see anything there. For me, because I work and I it's up here, I'm from the city, I thought I could turn it and make some profit on it. So far I came up here and I'm you know, you see the numbers there, you believe it or not. We can go up there anytime; the property is just five minutes from here. And if you see the pictures before and now then you're going to say yeah the numbers, it's not even enough. I just try to be fair. The cleaning and maintenance just to make it, the super on the property there doesn't pay rent just to make it easy for you to understand that. That's the cleaning and maintenance, just not collecting rent from the super is more than \$15,000 but I'm just trying to be fair. And then cost of repairs even more in debt.

Chairman Froessel: Well, I assume that you are not taking rent from the super because he's providing a service.

Mr. Nikaj: No.

Chairman Froessel: He's providing a service?

Mr. Nikaj: Yes, that's right. That's the maintenance. That's what I was trying to explain the question he asked me. That's the cleaning and maintenance, that's the cost. I don't make it but that's where it ends up.

Chairman Froessel: OK.

Boardmember Gil: Sir, what was your purchase price on the property?

Mr. Nikaj: \$878,000.

Boardmember Gil: I'm sorry, what was that?

Mr. Nikaj: \$878,000. This is one... I don't have a copy of this but...

Boardmember Gil: Thank you.

Chairman Froessel: All right, this application went to County Planning and they came back with something other than an approval; a modification. They said *that "building plans should be submitted for proposed conversion including floor plans; details on septic and wells should be provided as well as parking and lighting plans."* Have you done any of that?

Mr. Nikaj: Building plans I provided to Mike Levine.

Chairman Froessel: When?

Mr. Nikaj: Even before, you know when I applied and was denied the application.

Chairman Froessel: Floor plans?

Mr. Nikaj: Yes, the floor plans.

Chairman Froessel: Victoria (Desidero), do we have that?

Ms. Desidero: No, that's in the Building Department file I guess. That's the basis for the denial.

Mr. Nikaj: Yes, he asked me and I provided to them.

Chairman Froessel: OK, how about details for everything else?

Mr. Nikaj: He said no and told me to come to you.

Mr. Annunziato: We haven't started anything yet. We've been in touch with Mike Budzinski at the Health Department. We went over the procedure that we were following if it looks like he is going to get the variance; we have to evaluate what's there and tell him what the existing

water system and septic system and what they require. It's an inadequate system and we don't know if they will require a whole new septic system and we feel we will be able to follow what needs to be done for the property.

Chairman Froessel: I think we have a chicken and the egg problem here because County Planning wants the details on the septic and wells before we vote on a variance.

Mr. Nikaj: Details that Insite Engineering has what I started four years ago for the same thing and he provide me with this information whatever for the septic, the lights; that's why this guy is here today.

Mr. Annuziato: It's going to take a lot of money and a lot of work to do the investigation and do the design to get the approval in hand.

Mr. Nikaj: Like I explained the first time, I cannot spend money for all of this unless I know I can... because even to do anything like you said I have to get a permit for plumbing, permit for anything else and I can't move on this because this is the first step, as my understanding, and I am nervous to hire and do all these things before I know it's going to happen.

Boardmember Vink: What are our obligations with respect to the County's request or recommendation?

Chairman Froessel: We can vote on it without those plans in hand, he'll need a super majority. We cannot vote contrary to the County's recommendation by a simple majority, it has to be a super majority, so instead of 4 votes he needs 5.

Mr. Annuziato: And any approval that you might grant would be conditioned upon the obtaining those approvals. Obviously if we didn't...

Chairman Froessel: So, what is the drawing you've got?

Mr. Annuziato: It's just showing the unit in question.

Mr. Nikaj: It's the building we're talking about, the one over here and it tells that's the parking, that's the lighting for the parking, there's another parking over here. Here's the septic over here and another septic over here near the parking. And it includes the wells for the water. I start this and I say...

Chairman Froessel: So, that's a depiction of what's existing, correct?

Mr. Nikaj: Yes, this is whatever is existing, yes. My point is, I'm not adding anything. This whole thing is here. It's already in the middle of the... it's attached to two buildings and that's what I'm asking you because I don't see any... you know to leave it vacant.

Boardmember Cassidy: Well, I think the problem that my colleagues and I are having with this application is: a Use Variance requires a great deal of proof. It's not asking for a variance to build a deck or a variance to have shed. A Use Variance has very restrictive guidelines.

Mr. Nikaj: For me it's the first time, that's why I'm here. I tried to explain the best way I can my position and you do the judgement, whatever you feel, but again what you see everything here is apartments and nothing else. The building is even attached to this. Even if I tear this down or something the other ones is going to be affected. As a structure, it's the best building. It's cinderblock. It was a factory. You see the beams there and the floors they had for the machines they had there. Compared to the other buildings, that's the best one. I leave it up to you if you feel it's right and provides another five apartments for the community, more taxes and work for everybody and more money for me to spend anyway, but...

Boardmember Vink: Well, those aren't really the issues. The issue is whether or not you can achieve a reasonable return on your investment without it.

Mr. Nikaj: It's not that, you can see it. Honestly, I've done really, probably going to put on market. I spoke with Mike (Levine) even before when we went through with this because I come from city. Every single day, just to explain another thing for this what you asked me the first question. My English is not that good. I passed the bridge at least four times a month,

every week and for 52 weeks, just the bridge tolls for me is \$8.50, \$8.50, \$16.00; another \$10 for gas or more. Just to go and come here I spend like \$2000-\$3000 in gas and bridges and stuff.

Boardmember Corozine: I have a question about the report: I know back in 2012 it reflects an income for the year of \$13,000, is that correct?

Mr. Nikaj: Yes.

Boardmember Corozine: And what you're reflecting now is \$8,000. Now the \$13,000 in 2012 does not reflect any debt reduction, at least not on anything that I see here. When you purchased the property you had the understanding that you were going to carry a mortgage, as it stated in that document, you were going to carry a mortgage of \$650,000, which is equivalent to \$59,000 (inaudible) for 2018 so I'm wondering why \$8,000 would not be a reasonable rate of return based on your expectations. It seems like the only thing that was out of line with your expectations comparing 2012 to 2018, would be the \$40,000 worth of taxes.

Mr. Nikaj: We had the increase in taxes. We had the management fee, that was my calculation because I cannot run it myself and the repairs that I do and that's why I kept the property. The building was vacant, this one here was vacant and I had to redo four units over there. This cottage was coming down. I had to do this one and that's why I saw the potential, that's 13. I can make a positive number and make some money back.

Boardmember Corozine: How much improvement has been spent from 2012 to date?

Mr. Nikaj: I told you at least \$300,000 up to now. All of this, if you come and see it, this is all new, this is new, and this was redone. There's a garage here, the building here. Just cleaning, the machines, I had to get a few containers and hire the guys to take the metal out and then start to replace windows. This is unending. When I bought it my brother told me 'you got work until you die.' That was his honesty. It's never going to end with me but that's why I'm here. I'm not trying to make any story. That's the numbers, I have the bank every month statements from the bank. You can see it to believe that. Then we have to go wherever you guys asking for me to do and the rest, of course we have to follow by law what is required for us to do because I know I get the CO on this everything is done and I don't want to waste the money for nothing.

Chairman Froessel: Is there anyone in the audience that has any comments or questions on this application? No? OK. Do we want to vote on this tonight? It doesn't sound like we're going to get any more information than we have. Are we comfortable voting on this this evening? OK, all right. Does anyone have any other questions of the applicant? Oh, I... I'm sorry, go ahead Greg (Wunner).

Boardmember Wunner: That big building you say is the best building?

Mr. Nikaj: Yes.

Boardmember Wunner: With it empty as a shell?

Mr. Nikaj: Yes, with it empty as a shell.

Boardmember Wunner: Is there anything you can do to rent that out in its current condition?

Mr. Nikaj: I don't know, again, they told me the lost... when I went and talked with Mike (Levine). After two years they say you lost the right to use as commercial. That's why I started this one. And also I don't know how this works, honestly, even as a realtor I don't know. They lead me to follow this direction and I'm here now. But, if you see that building, the beam is still beam, double floors, and everything because there was a factory.

Boardmember Wunner: Do you have any idea the square footage of that building? Is that in the application?

Mr. Nikaj: It is about 50 by 50. It's a walk out basement for one apartment and it's three apartments on the first floor and the attic will be just one apartment, a one-bedroom apartment.

Boardmember Wunner: That's what you're proposing?

Mr. Nikaj: Yes, that's what I'm proposing and I give the plan to Mike Levine when I started.

Chairman Froessel: Will, am I correct that in contemplating the reasonable return on the property we're not limited to its current use; we can consider any use that could be made on the property? In other words subdividing it and building houses that conform with the Zoning Code is one option that comes to mind.

Town Attorney Will Stephens: It's certainly something that could be analyzed but I think that in determining whether the property as it stands would provide a reasonable return on investment is really a dollars and cents that he should be able to provide with an audited financial statement.

Chairman Froessel: OK, and we don't have an audited financial statement.

Mr. Stephens: Does he have any kind of financial statement? Has he provided anything that's prepared by anyone other than himself?

Chairman Froessel: Who prepared the...?

Mr. Nikaj: No, I have tax return if you want to see it, but this I just myself. I don't hire somebody to do my... the first page is what I got from the sellers.

Chairman Froessel: That I understand.

Mr. Nikaj: Yeah, but this one is just my tax returns, whatever I went over with my accountant at that time. He was not available these days to come to the Town and just for me it's no big deal because the income is just what it is coming in and what we spend, taxes, mortgage and whatever is there that's the right numbers.

Mr. Stephens: I think the analysis should really be what his investment is against what his return is. I mean certainly there are analyses as to what a reasonable return on that investment would be. I don't know if I could give you better information than that. It's really a numbers thing that if properly presented it should be looked at. I'm not seeing a significant return on investment here, but whether it's a reasonable return is...

Mr. Nikaj: If I start this application the same year I bought, I did not know the rules that's why I was delayed and with this income I believe, you know, that's why nobody bought it anyway. I thought I got a good deal, but I start with that and keep working every day.

Boardmember Vink: Well, if you were paying yourself you'd still have negative number.

Mr. Nikaj: No...

Boardmember Vink: It was negative \$13,000 when you bought it or \$14,000 but you've got an \$8,000 profit but that's because you're not paying yourself.

Mr. Nikaj: That's right.

Boardmember Vink: You're not really working for free. If you were paying someone to do it you'd be losing \$50,000-\$60,000-\$70,000 a year.

Mr. Nikaj: Thanks for understanding that because...

Boardmember Cassidy: It results in like \$56,000 on your indebt service.

Boardmember Vink: Yes. So, the numbers are actually very similar to what they would be.

Boardmember Corozine: Right, so the expectation is the buyer should be aligned with that but I think also a component is the amount of investment through the years from 2012 to 2018, which you had mentioned was \$300,000 but we have absolutely no documentation whatsoever.

Mr. Nikaj: No, I'm just, I'm myself. I don't even keep all this because it's a lot of work. Again, I am my own company, construction, and I do with my guys like it says I don't pay myself but the labor and the materials from Home Depot whatever we spent is visible. There's

nothing to hide. You go there and you see how much work is done; stone walls and break walls and all this kind of stuff and they're not cheap. I'm trying ways, I know after this is done to me that first I have no more headache, I know whatever it is. If I survive I keep going on. If not, then maybe someone better than me can buy it and good luck to other guy.

Boardmember Vink: Well, it seems like if we evaluate this what it really comes down to is a reasonable return and we have four criteria that I think you can't argue about the hardship and whether it was self created. The other two factors I think are not issues. It is unique to this property and it does not affect any other portion of the neighborhood and it will not alter the character of the neighborhood. I think criteria two and three are not issues and I don't think the self created one is either. I think what you're coming down is: can he make a reasonable return on this property without this Use Variance from any of the other permitted uses either and I've looked at other uses and there is nothing else you can do with this property. With the way it's configured, there's nothing else you can do with it I don't think except use it for rental apartments.

Mr. Stephens: I'd like to throw another angle in here for you to consider. What he's really doing is seeking a Use Variance but he's looking to expand a pre-existing non-conforming use. How this property became a residential use is I guess a product of lore. I know that the individual who lived there at one time did have a fur business. They tanned hides and they prepared leather. How they got approved in the first instance was probably because it was there before we had Zoning, which we didn't have Zoning until 1955. That's my theory, I don't know, but it did become then a multi-family residential structure or structures on one lot and whether that again pre-existed Zoning I don't know, but what we're really looking at here is whether this applicant should be allowed to expand a pre-existing, non-conforming use. Rather than re-zoning the property.

Boardmember Vink: In order to make a return.

Mr. Stephens: Exactly, it's more than granting a Use Variance to the entire property to make it a multi-family; what we're doing is expanding a pre-existing, non-conforming use to allow for X number of units in addition to what's there as pre-existing, non-conforming.

Mr. Nikaj: I know it's complicated and stuff. For me, if I had known this from the beginning I'm not here.

Boardmember Vink: That's what they all say.

Mr. Nikaj: Honestly.

Boardmember Gil: I have a question though: how does that not negate number four, because it's self-created in a sense that this is a financial hardship in a sense that Mr. Nikaj purchased this property, he knew that there were 23 units there and that was it. That was his umbrella to make a profit. So, he consciously chose with the analysis of the 2012 document to enter into a contract to purchase this property and now several years later he is seeking an amendment, even if we call it a pre-existing, non-conforming use, to extend the pre-existing non-conforming use. This is something that we're extending his self-created issue and he's seeking a windfall from it rather than...

Mr. Nikaj: (inaudible)

Mr. Stephens: Windfall is a strong word.

Chairman Froessel: I get your point. I mean he bought it knowing the prior owner had lost \$13,000 a year before.

Boardmember Gil: Absolutely, I mean he's turned it into an \$8,000 profit minus the mortgage and the interest. I mean he's turned it into a profit so how do we meet one and four? I don't see one and four being met here at all. I just don't. Not with the information that we have before us right now.

Boardmember Cassidy: Well, certainly I think I agree there's at least a question of competent financial information. And with a lack of competent financial evidence I think number one is going to be very hard to meet by definition.

Chairman Froessel: OK, well the other issue I have is if we take a vote we've got this issue of the County Planning thing. Will, do we need four or five votes?

Mr. Stephens: You need five.

Chairman Froessel: We need five? OK.

Boardmember Vink: Do we want the applicant to come back with more financial information so we can evaluate that?

Chairman Froessel: I'm willing to give him the opportunity if he wants to do that.

Boardmember Corozine: To me that would be a benefit because right now we're looking at financial analysis and Mr. Nikaj may have more information based on his level of investment between 2012 and 2018, but right now it's not here. There's no documentation supporting that so I don't see how I could make a decision based on it without formal documentation.

Mr. Nikaj: I started in 2012 to buy but I bought it in 2014. This month was five years.

Boardmember Corozine: OK, whatever your...

Mr. Nikaj: Just to get the closing because whatever problems were there I'm trying to figure out.

Mr. Stephens: I think what the Board is asking is for you to provide dollars and cents proof provided by a professional, whether it's an accountant or someone that has the ability to analyze the finances of this transaction to show that you're not making what a prudent business person would say is a reasonable return on your investment.

Mr. Nikaj: As you can see I have my taxes, my accountant had done them.

Mr. Stephens: You don't follow me.

Chairman Froessel: I don't think that your taxes are going to get that done. You need... the statute tells us you need competent financial evidence. It's going to require someone to do an analysis, like an accountant, who would be willing to certify it, of the entire ownership of this property; all your costs vs. all your income and come up with a statement as to what has been your return and what would be a reasonable expected return and whether or not you've been able to achieve that or not. So, I will give you a choice: we can either vote tonight or I'll give you a chance to go and try to get that evidence and come back next month.

Boardmember Cassidy: Because no matter how badly we want to say yes to you, we have to follow our own rules.

Mr. Nikaj: No, I understand and respect that; that's why I'm here. I follow rules too, that's why I'm here. Next month I am going on vacation to see my mom back home and I don't mind I can come again any time but I'm the best accountant for myself because everything comes and goes from my pocket. I know how this is working and I know what I am spending. That's to me... I can't hire someone, a genius, and create whatever...

Mr. Stephens: Are you a Public Accountant? Are you a CPA? Do you have a degree in accounting?

Mr. Nikaj: No.

Mr. Stephens: OK, you need someone with a degree in accounting to take all of your documentation, your tax returns as well as your closing statements and your investment record; monies that you've invested in this property since you've acquired it and have them put together an analysis certified to this Board as to what your...

Mr. Nikaj: I'm happy to do whatever you are asking.

Chairman Froessel: OK, and you say you're away next month?

Mr. Nikaj: Next month I am not going to be here.

Ms. Desidero: You asked me last month to give him the option to come back this month or to ask for an adjournment and that's when Mr. Nikaj told me that he was going out of the country and would be away on the 15th of July.

Chairman Froessel: So, we can put it to August. I just wanted to know the dates.

Ms. Desidero: Oh, I'm sorry.

Chairman Froessel: That's OK.

Ms. Desidero: I didn't hear you say that. The date is August 19.

Chairman Froessel: OK, are you available August 19?

Ms. Nikaj: I have to look at my ticket. I'm not sure, I am leaving 20 and I come in 15 next month of August, but I know I have ticket so I can check ticket and see. But, again, I can go and talk to an accountant.

Mr. Stephens: And certainly this gentleman doesn't have to be here to present that information as long as someone is here.

Chairman Froessel: He can have someone present it on his behalf. Let's put this over to August 19 and contact Victoria (Desidero) in advance of that if you can't be here, you can have someone provide that accountant's analysis.

Mr. Nikaj: My son can come.

Chairman Froessel: OK, that's fine and obviously if you're back you can come and we'll pick it back up then and see what financial analysis we have to work with, OK?

Mr. Nikaj: OK, thank you for your time.

2. GTY NY Leasing, Inc. (Mobil Gas Station) 978 Route 22, Tax Map ID 68.5-2-25

Continued Public Hearing to review an application for the following:

1. Sign Area Variance of 6 sq. ft. where 30 sq. ft. is permitted and 36 sq. ft. is proposed;
2. Sign Height Variance of 3 ft. where 15 ft. is permitted and 18 ft. is proposed;
3. Freestanding Sign Variance to allow an additional 3 freestanding signs where 1 is permitted and a total of 4 are proposed;

Lizzie Holloway appeared before the Board.

Boardmember Vink: Just as a reminder you are still under oath.

Ms. Holloway: Yes, do you want me to say my full name?

Boardmember Vink: Sure.

Ms. Holloway: OK, it's Elizabeth Holloway.

Chairman Froessel: OK, so...

Ms. Holloway: Did you go to the site?

Boardmember Cassidy: Yes, I did go to the site.

Boardmember Corozine: Yes.

Chairman Froessel: I went there as well and you do have a sign on the canopy.

Boardmember Cassidy: They have two signs.

Ms. Holloway: Yes, we have two, one at each end. When I left here last time I went up there to double-check.

Boardmember Cassidy: They are substantial and illuminated.

Ms. Holloway: OK.

Boardmember Corozine: They are also bigger than the roof too.

Ms. Holloway: Yes, the freestanding sign stands above the canopy, yes.

Chairman Froessel: So, we sent you away to think about a couple things with the signage you were considering: the blades and possibly reducing the height of the freestanding sign. Do you have anything for me on that?

Ms. Holloway: I talked to the client about the freestanding sign and he said no. He said if it's there now I'm not touching it.

Chairman Froessel: Very good.

Ms. Holloway: But, as far as the blades go he would, if you guys were willing to vote to allow the blades he is fine with taking the other one out.

Chairman Froessel: What other one?

Ms. Holloway: The one that looked like an upside down L. The bigger structure that we had said basically we would... because that's basically the first one and then the others continue it, but he said he would definitely omit that one if you would allow the three blades. But, as far as taking the sign down in height he goes: 'if it's already there why would I touch it?'

Chairman Froessel: OK.

Ms. Holloway: But I said that that might cause an issue if he wanted to reface the pricer with the LED because you guys did say in order to move forward with anything you needed it to come down like 3 ft.

Chairman Froessel: Well, it would be in conformance with the Code and it would lessen the quantity of variances that he would need.

Ms. Holloway: OK.

Chairman Froessel: So, it sounds like we are pretty much right where we were last month. All right, well, is there anyone in the audience that has any comments or questions on this application? No? OK. Any of the Board members have any additional questions? I'm trying to keep an eye on how many... there are a number of drawings here.

Boardmember Gil: I have a question for you: you're a contractor, right?

Ms. Holloway: Yes, we're the image contractor.

Boardmember Gil: The image contractor?

Ms. Holloway: That's what our company is, we're an image contractor.

Boardmember Gil: You just create the signs and then sell the signs?

Ms. Holloway: We install them, we don't build them. We get them from a manufacturer.

Boardmember Gil: OK, so what is the owner's role in this?

Ms. Holloway: GCNY? They're just the property owners.

Boardmember Gil: OK, are there any other plans to maybe, I mean would this be considered an area of beautification?

Ms. Holloway: Exxon Mobil is expanding their image. They... pardon my terminology because I don't understand their logic in it, but they call it directional signage. I don't understand how it's directional. To me directional is in and out. This doesn't say in and out. They consider it directional signage. I guess because the what I call the upside down L would come up and then the blades would continue so that's flow of traffic but to me it makes no sense. To me it's an updated look of their image.

Boardmember Cassidy: Especially since you can pull in here.

Ms. Holloway: Exactly, it's not like it's an in and an out, it doesn't change the way the driveways work.

Boardmember Cassidy: I think they call it directional signage because many Boards and many Codes have a much more relaxed standard for directional signage.

Ms. Holloway: For directional signage, yes we found that out; not so much in New York but Jersey, Pennsylvania...yeah sure there ya go, so yeah. When you're in the middle of nowhere in Pennsylvania nobody seems to... sure it makes the Town look nicer. I'm not trying to

confuse you but they also have ones that illuminate. They wanted to put those there and I said no. I'm like they're not going to let you do that.

Chairman Froessel: All right, I'm wondering if we should divide this up into a couple of different votes. We could have one for the digital price sign, one for the breaking wave or the L sign, and one then one for the blades signs. Does that make sense? Does anyone have any other suggestions? I'm open to any suggestions anyone has.

Ms. Halloway: You can still have these in your Town.

Chairman Froessel: Have what?

Ms. Halloway: This kind of signage; what they call the apertures, the blades, the waves. You guys don't have this in your Township yet, right?

Chairman Froessel: No.

Boardmember Cassidy: Did you say yet?

Chairman Froessel: We also don't have an iHop. They refused to come to Town because we told them they couldn't have their sign.

Ms. Halloway: I'm a glass half full kind of person.

Chairman Froessel: Anyone have any thoughts on how to structure the vote on this?

Boardmember Cassidy: I think your idea is perfect.

Ms. Halloway: I can bring you griddle pancakes next week no problem.

Chairman Froessel: As I told the guy from iHop, I know how to make a pancake. I don't know how to make many things but a pancake is one of them.

Boardmember Cassidy: You don't know how to make gasoline.

Chairman Froessel: That's true. All right, so are we OK to vote on this tonight? Very good. Do you have any final statement you'd like to make in support of your application before we vote.

Ms. Halloway: I presented everything last month when I was here so...

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

Ms. Halloway: Yes.

Chairman Froessel: OK, thank you. We'll close the Public Hearing. My suggestion is to split it up into three votes: one for the digital price sign, one for the L shaped sign, which is described on the drawings as a median breaking wave sign, and then a third vote on the blade signs that go over the pumps.

Boardmember Vink: Which denial letters go with which? So two of the denial letters go with the waves...

Chairman Froessel: One goes with the digital pricer...

Ms. Halloway: The other two go with the blade and the breaking wave, yes.

Chairman Froessel: I think there are three denial letters...

Ms. Halloway: Because I submitted three separate sign applications for those so he gave me one for each of the applications I submitted.

Chairman Froessel: OK.

Ms. Desidero: May I just ask a question so I can: do any of those three correspond to three variances that are required that are listed? I have all of those denial letters there.

Boardmember Vink: The denial letters are identical except that it's second ground sign, third ground sign, and a fourth ground sign and one that clearly relates to the LED pricer.

Ms. Desidero: So it will be three motions, three votes; is that what I'm understanding?

Chairman Froessel: I think. Let me think about this again. The digital price sign needs both a height and an area variance. One and two are the freestanding sign. Three is the additional signs.

Boardmember Vink: What three do you want to break up into separate votes?

Ms. Holloway: When I spoke with Mr. Levine, I explained to him that the blades weren't freestanding on the ground but he said they still fall under your freestanding code because they're attached to the canopy pole which is considered freestanding. Just trying to speak out loud too so I understand how we're doing it.

Boardmember Vink: I think number three on the agenda actually is two votes: it's one on blade and one on the L shape.

Chairman Froessel: And one and two necessarily have to go together.

Boardmember Vink: I don't think they have to. I think you could say yes on the sign area but not yes on the sign height. I myself would like to have the sign area and height dealt with as separate motions.

Chairman Froessel: OK. So, then we have four; we're splitting three into two with the blade signs and the L shaped sign so that's four motions actually.

Boardmember Vink: Yes, that's then four.

Chairman Froessel: OK, I'll entertain any motion that anyone would care to make on these applications.

1. The motion to grant the applicant a sign area variance of 6 ft. to make it 36 sq. ft. where 30 is permitted was introduced by Boardmember Vink, seconded by Chairman Froessel. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
I don't believe there will be any change to the character of the neighborhood by having a slightly larger sign in that location.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
They could use the same sign size that they're using now but to get the desired visibility for the sign you cannot without a variance.
3. Whether the requested variance is substantial.
I don't believe that it is substantial.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There's no evidence of that.
5. Whether or not the alleged difficulty was self-created.
It is only self created to the extent that they want to replace the signs for additional visibility.

Roll Call Vote:

G. Wunner	In Favor
J. McNeill	Absent
P. Vink	In Favor
R. Cassidy	In Favor
S. Corozine	In Favor

A. Gil In Favor
T. Froessel Opposed

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

2. The motion to deny the applicant a sign height variance of 3 ft. where 15 ft. is permitted and 18 ft. is proposed was introduced by Boardmember Vink, 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 created by the granting of the variance.
I believe that the Town has made quite clear that the height of these signs should come down and I don't believe that there is a necessity involving this sign at 18 ft. I believe that 15 ft. accomplishes everything that would be necessary in that location especially since it is at the end of that triangle where it's visible from everywhere. I don't think 3 ft. adds to the visibility so I don't think it's necessary in that respect.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
Yes, I think the sign can be shortened. They don't need it to be that high.
3. Whether the requested variance is substantial.
No, I don't think of it as substantial but it is substantial enough to make a difference with respect to the heights of signs across the board in this Town.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
I don't believe it will.
5. Whether or not the alleged difficulty was self-created.
I don't believe it's self-created either.

Roll Call Vote:

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

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

3. The motion to deny the applicant a proposed second ground sign that is called the median breaking wave sign was introduced by Boardmember Vink, seconded by Chairman Froessel.

The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
The character of the neighborhood is not going to change because there's another sign, but at the same time it is another sign and it is beyond the limits of the Code and what's existing there already.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
It's an additional sign, they need a variance for it. I don't see the benefit of this sign; it's just outweighing the Code provision and they're not entitled to it.
3. Whether the requested variance is substantial.
Yes, it's another freestanding sign. They already have a freestanding sign and their asking for another one that is not attached to the existing structures so I believe it is a 100% increase and I believe it's substantial in that respect.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
I don't believe it will.
5. Whether or not the alleged difficulty was self-created.
Yes, I believe this one is self-created in that it's really just advertising and not necessary signage for the product.

Roll Call Vote:

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

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

4. The motion to grant the applicant two variances with respect to the two blades to be attached to the existing canopy column was introduced by Boardmember Vink, seconded by Chairman Froessel. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
No, I don't believe there is any change whatsoever to the character of the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No, again it's additional signage that would require a variance no matter what they were trying to do.

3. Whether the requested variance is substantial.
Yes, it is substantial in that it is again a 100% increase in the number of signs. In this case I think the distinguishing factor is that they are smaller signs being attached to existing columns so they are not really freestanding signs the way the breaking wave was shown.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
Again, I don't believe there is any evidence of any.
5. Whether or not the alleged difficulty was self-created.
Yes, it was self created in that they want more signage beyond what the Code allows.

Roll Call Vote:

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

The motion to grant the variance as stated in the motion passed by a vote of 4 to 2 with 1 absent.

Ms. Desidero: I would like to request however that I be allowed to write this up tomorrow and send it to you for a signature because if I try to jot it down it may not be 100%.

Chairman Froessel: That's a good idea. So, Victoria (Desidero) will reduce all this to writing and we will get you something signed.

Ms. Holloway: OK, I didn't want to sound illiterate but I'm sitting here saying 'wait, what just happened?'

Ms. Desidero: It will be clear when we write it up and I will send it to you.

Chairman Froessel: Thank you.

Ms. Holloway: Thank you. Have a great evening.

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

Public Hearing to review an application for:

1. Number of wall signs: request for 2 additional wall signs where 1 is permitted and 3 are proposed;
2. Total square footage of signs: variance of 38.5 ft. where 107.10 ft. is permitted and 146.3 ft. is proposed;

Chad Nehring, architect for Brewster Ford was sworn in.

Mr. Nehring: For those who don't know Brewster Ford is undergoing a renovation right now and part of that is there are a few additions going on to the building and they are also bringing the building up to the national Ford branding. So, very similar to most national brands, Ford

has a look for what they want for all their buildings so we have a brand tower here with a Ford sign. We then have this metal banding that wraps around the top section of the building. We have the Ford entry tower, which defines the front door. Part of what Ford does on this property is: we have two Brewster signs that are 26 in. tall letters and just over 21 ft. long for each one. So, when we applied to them what is approved and one sent us here. One of the Ford signs, the one at the entry tower was approved. This one on the brand wall brought us here and we also have a small service sign above the service bay, which was a non-issue and that was approved also. So, one of the interesting things about Brewster Ford is we're right there on Route 22, kind of up towards the overpass of 84. We're also bordered to the south by Argonne Road so we have two front yards. One of the interesting things is as one is getting off of the highway directly across from the Brewster Ford sign here we're presented with this view. I don't know if you've all been out there or not, but ultimately right from this intersection you can see across and there is natural branding. You get to see the Brewster sign and then it also happens as we're heading southbound from the gas station were bending right at the fork in that road. We then have the other Brewster sign happening right around here, so this is the one that was not approved and the branding tower that's also going to be on that elevation is the other one that was not approved. Those are our hardships and as I said the intersection has people coming from all directions and putting signs only on one side it's very difficult to find without the proper signage. So, that is the interesting part about the actual site location.

Boardmember Cassidy: Sorry to interrupt: so there are no signs on Argonne Road?

Mr. Nehring: Correct, there are no signs on that side, which from my experience that is a cut through so everyone just sort of uses that road as a shortcut to get around. The other interesting thing about these signs is these all come in certain dimensions. There is a 26 in. height, which is the one that we're using and then there's also a 39 in. height so we are on the smaller side and that is what brought us in tonight. Yeah, I think that would be quite a jewel for that little section to have that there.

Boardmember Gil: You're saying without the variance you wouldn't be able to see the Brewster dealership from Route 22?

Mr. Nehring: Heading south, yes. Same for the other Ford sign, these are redundant but this one is known as the Ford branding wall so Ford has very specific colors, materials, and signage.

Chairman Froessel: It is kind of a unique location because you have Route 6/22, Argonne Road behind it, Sodom Road coming out the other side by the Subaru dealership, you have the off-ramp from 84 right there and there's a lot going on over there. A lot of different angles.

Boardmember Gil: What's the project's estimated time of completion?

Mr. Nehring: We're hoping for December so crossing our fingers, it hasn't been the smoothest road.

Boardmember Cassidy: So, why choose Brewster and not an additional Ford instead?

Mr. Nehring: Why two Brewster? Well, there's two Brewster and two Ford.

Boardmember Cassidy: No, the second Brewster; actually Brewster makes no sense to me at all, but...

Mr. Nehring: Besides identifying the dealership, yeah.

Boardmember Cassidy: I'm not (inaudible)

Mr. Nehring: Yeah, why wouldn't this be a Ford sign on this side?

Boardmember Cassidy: Yes.

Mr. Nehring: Ford actually doesn't use these block letters as part of the Ford logo so this is specifically a dealership thing, no different than their competition in Danbury or any other Ford dealer. So, the dealership name is always in these block letters and then the oval Ford sign has been Ford's logo I believe since 1912 so that is their brand recognition.

Boardmember Gil: So, what you're saying is that is the front of the building, not the other side so Ford is identifying their logo on the front of the building and the dealership is on the side of the building? Is that what we're...

Boardmember Cassidy: I think that's what we're talking about. We understand it to be more of a location identifier to me than it is the name.

Chairman Froessel: I think it identifies this particular dealership as opposed to Colonial Ford in Danbury.

Mr. Nehring: One of the things that I did actually go back and forth with Ford quite a few times; they're incredibly specific on where these signs go. Brewster here was not an option and it was fascinating just to see how they shot down certain design criteria.

Boardmember Vink: So, why the Brewster on the side elevation when there's no Ford over there and you're in Brewster.

Mr. Nehring: That's a good question. I can certainly reach out to Ford and ask, but I would think it has to do with the actual elements that get the Ford sign. So, the entry tower is a very specific element that happens on all these buildings and then branding all is the other one.

Boardmember Vink: Right, no, I get the one on the left here with the Brewster in corner and the Ford on the entry lane; it's the Brewster on the side elevation that is a little bit more perplexing, it's just kind of Brewster.

Mr. Nehring: Yeah, no, it's interesting, this branding wall is exactly 24 ft. wide. It won't fit to the right hand side of the service we're going in; it's too narrow there and Ford won't allow that branding wall to be any narrower so Ford wants the branding wall there because it has to hit their national standard 24 ft. I totally understand that it would make sense that they'd put the oval there but that's in Ford's design book.

Boardmember Gil: If you have Brewster on that side so when you're getting off the thruway you have something, otherwise there'd be nothing that would indicate what that was.
(Multiple people talking.)

Boardmember Vink: To me on that side elevation it would almost make more sense for another Ford sign.

Chairman Froessel: Put the two Ford logos on the same elevation and then just Brewster on the other way.

Boardmember Cassidy: No offense to Mr. Ford.

Mr. Nehring: We're also only going to have SUVs and trucks now so.
(Multiple people talking.)

Mr. Nehring: Ford was very specific. We went back and forth quite a few times to locate these signs properly and to get their thumbs up.

Boardmember Cassidy: I understand the second Ford but I don't understand the superfluous, I don't know what it means, Brewster on the far side but that's just me.

Mr. Nehring: Well, hopefully if you're looking for a Ford you can find your way.

Chairman Froessel: Is there anyone in the audience that has any comments or questions about this application? No? OK. I'm kind of thinking out loud here: to me part of this application is obviously the branding but also because of the orientation of that building, that one side that just has the Brewster on it you have to have something there. You can't just have it blank or people are going to come off 84 coming down east from Connecticut and have no idea what that building is until they have passed it.

Boardmember Cassidy: And if you're looking for Brewster they'll find it.

Chairman Froessel: Yeah, but it's just the configuration of the rows there and the orientation creates a little bit of a unique sort or circumstance.

Mr. Nehring: It's fascinating in that way and also, it's by the highway too so it's slightly different with traffic and then all of a sudden there's someone who is car shopping, if they pass this dealership all of a sudden there are three more after them so it is interesting in that..

Boardmember Vink: And the first one they see if they're not really paying attention is the Subaru dealer on the right.

Mr. Nehring: Correct.

Boardmember Vink: And then the empty one across the street from that so...

Mr. Nehring: Right, right.

Boardmember Vink: That's a disadvantage of being up on a hill for Brewster.

Mr. Nehring: Sure, the first spot is not the best spot because it's almost the last spot. If someone misses that turn.

Chairman Froessel: Probably the best way to see it is the least used route, which is coming out Sodom Road.

Boardmember Vink: Right.

Chairman Froessel: No one has a need to see this, right? We've all driven by?

Mr. Nehring: Well, this section should be changing for you, the front section should be getting a little bit more interesting.

Chairman Froessel: Are we up for voting on this today?

Chairman Cassidy: I think so.

Chairman Froessel: OK, anyone have any more questions you want to ask the applicant? No? OK. Do you have any final statements you'd like to make in support of the application before we close the Public Hearing and take a vote?

Mr. Nehring: I think we've touched on everything.

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

Mr. Nehring: Yes.

Chairman Froessel: OK, thanks. So, I think what the applicant is looking for is pretty clear from the denial letter. A request for additional wall signs and additional square footage. I will entertain any motion anyone would care to make on this application.

The motion to grant the applicant a variance allowing three wall signs where one is permitted and also allowing the applicant a variance of 38.5 ft. from the total square footage for signs to permit 146.5 ft. of signage was introduced by Chairman Froessel, 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 created by the granting of the variance.
No, I don't think it will be an undesirable change or a detriment to nearby properties. A very similar property is right across the street, the Subaru Dealership, with similar signage and they were granted a variance for their monument sign a year or so ago. And, I don't think it is a detriment to nearby properties as the properties directly adjacent are down below it and below a retaining wall and won't be able to see it.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
Given the current state of the Code, no I don't think it can.
3. Whether the requested variance is substantial.

It is but I think the substantiality of it; it's a variance of almost 50% on the total square footage and I think that it is mitigated by the fact that the orientation of the building and the configuration of the roads in that area almost make it necessary to have signage on at least two sides of the building.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There's no evidence of that.
5. Whether or not the alleged difficulty was self-created.
It's self-created to the extent that the applicant wants to remodel their building and bring it up to the current standards, but I also think that there is a branding requirement that is required by the manufacturer.

Roll Call Vote:

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

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

4. Warren Paukner

206 Tonetta Lake Road, Tax Map ID 56.12-1-1

Public Hearing to review an application for a third renewal of a previously granted conditional variance by the Zoning Board of Appeals contingent that the property was brought into compliance with the Putnam County Health Department by December 31, 2018. The variances required are to permit an apartment:

1. in an accessory structure;
2. on a lot less than 40,000 sq. ft. in size where a 25% variance is needed;
3. in an accessory structure on a lot less than 5 acres where 30,000 sq. ft. is provided and 200,000 sq. ft. is required;
4. exceeding 25% floor area of the principal residential structure, where 960 sq. ft. divided by 25% equals 240 sq. ft. and a variance of 760 sq. ft. is required;
5. to exceed 800 sq. ft. where 1000 sq. ft. is provided and a 200 sq. ft. variance is required.
4. Total Side Setback variance of 20.8 ft. where 70 ft. is required and 49.5 ft. is proposed.

Chairman Froessel: I am recused and have been and continue to be recused from this application.

Michael Liguori, Attorney: Tim (Froessel) do you want to do minutes so you can go?

Chairman Froessel: I'm sorry?

Mr. Liguori: Why don't you do your minutes so you can go?

Chairman Froessel: No, I'll stick around. I sit in the hallway for a little bit. I appreciate the offer but I don't want to shirk my duties. So, Paul (Vink) you're in charge. Michael Liguori, Attorney for Hogan & Rossi was sworn in.

Mr. Liguori: Well, I was hoping to not be back. We had very specific instructions to not come back.

Boardmember Cassidy: And we recall that.

Mr. Liguori: Yes, vividly. So, we were here on September 17, 2018; that was the last meeting where the variances were re-granted conditionally to expire by December 31. At that point, Warren (Paukner) had been issued a Building Permit in July... actually a Highway Work Permit; that's the technical permit that was issued to do the work on the road to do the service connection. The long and the short of it is that he was basically put off by his contractor because of the amount of rain that had gone on. There was some back and forth with the Town about whether they could drill under the road as opposed to cutting the road, but I don't think that really caused any particular delay. They reached a point where his contractor said 'look, I'm not going to get to this this year.' Fast forward to most recent, Mike Levine and Willis (Stephens, Town Counsel) had reached out to us and said 'hey what are you guys doing? If you don't go back and get this done, we're going to recommence an action against you.' Warren (Paukner) would have to vacate the apartment. It certainly wasn't for lack of desire on Warren's (Paukner) part to get the work done. He had spent a very considerable amount of money to get the plans approved, extend the District, get the permit, post the bond, buy the insurance, sign the contract with his contractor. That all happened and that permit is still valid. They commenced construction today as a matter of fact. Warren (Paukner) had asked me 'what should I do?' I said 'look, build it because if you don't build it and show someone that you're actually going to do something I think you're dead in the water.' So, he's out there building that extension. Today was day one. They were able to do the road cut to get the pipes into the road to cross from his property over to where the extension is going to be laid and I believe back over where it connects with the manhole in front of the sewer treatment plant.

Boardmember Vink: How long do they expect the work to take?

Mr. Liguori: I think it's only a few days' worth of work in the road. I think the work on his property to build the pump station to go up to the road is at least a few days' worth of work but they'll be out of the road. I think this week... so probably about two weeks in total from start to finish.

Boardmember Vink: A real two weeks or like the last one with four months and then here we are again?

Mr. Liguori: No, it's... they're out there working. There's no reason to stop. All the materials are on site, it's there. Jimmy Gagliardo is out there working with his crew so... look I'm not an expert on building these things but I do know that all of the materials are purchased and, on that property, and they are out there building this.

Mr. Stephens: What about the pumps?

Mr. Liguori: I believe the pumps are there. I know that they had an order for the pumps in July so as of last year they went and bought those so my understanding is that they are there, that Jimmy has had those since Warren (Paukner) funded the contract last year.

Boardmember Vink: Is there anyone that needs an update on the project itself? Andres (Gil) were you on the Board when we last extended this?

Boardmember Gil: No, I was not.

Mr. Liguori: Here's the two second version: In 2001 he bought a piece of property that had a very small single-family house that was 800, and 800 sq. ft. single family house with a 2000 sq. ft. garage. Above the garage was an illegal accessory apartment that has a CO for office and

storage. Warren (Paukner) occupied it as an apartment and rented the house and that's been the case for a period of time. The Town imposed enforcement action. We went to court for the enforcement action, proceeded to attempt to resolve the issue with the apartment. Dealing with the big-ticket item in this which is the septic system. The house has a septic system that was built circa 1900 and the apartment has a septic system that was built around 2000 but at the end of the day connecting to the sewer system is what's necessary because to legalize... or let's say to legalize the apartment he would have had to bring both septic systems up to Code and it's impossible. He doesn't meet the distances that are necessary between a well and a septic system.

Boardmember Gil: Yeah, I saw that in the application.

Mr. Liguori: He has about 75 ft. It's very difficult to get a variance for that requirement. The alternative was to do a raised septic system but that wasn't going to work; you would drive by and see it.

Boardmember Gil: Yeah, I see.

Mr. Liguori: So, we went to the Town Board and the Town Board agreed to extend the sewer district for Blackberry, which is a couple hundred feet down the road to improve the Paukner property and that's it. There's no mystery to what happened here guys. I wish I had something to offer you but I don't.

Boardmember Corozine: Just so I understand, you're saying right now the scope of work is two weeks and that's the same scope of work you discussed back in September of last year?

Mr. Liguori: Yes.

Boardmember Corozine: So, the reason that that two-week scope of work was not completed was purely because of weather between then and now, is that the right understanding?

Mr. Liguori: The weather was the delay. The contractor took on X amount of work and kept being delayed, delayed, delayed, delayed, and delayed to the point where he didn't get our project done, that's it.

Boardmember Corozine: So we have a combination of weather and contractor delays.

Mr. Liguori: Yeah, yeah, there's no reason other than that and interestingly it's not a big job, it's actually a fairly small job and one of the things Warren (Paukner) had said because I've asked him. I said 'look the Board is going to ask me why wouldn't you go hire someone else to do the work because it doesn't seem like it's very complicated work at all?' But there were a couple reasons: the contractor was doing it at a discount for Warren (Paukner) which makes it affordable to do and the second is he actually had a hard time finding a replacement contractor because it wasn't a big job in that short of time. Between... I was here September 17; I remember that date vividly. I left that meeting and called Warren (Paukner) and I said 'look you have until December 31 so either Jimmy gets this done or you go hire someone else and I would go start interviewing other people to get this thing done' and that was it.

Boardmember Corozine: When does the current permit expire?

Mr. Liguori: The existing Highway Work Permit? I'm not sure.

Boardmember Cassidy: Is it possible that it is expired?

Mr. Liguori: No, no, he wouldn't have been able to start the work.

Ms. Desidero: I did ask that today. It's not expired.

Mr. Liguori: When I talked to (Building Inspector) Mike Levine about being able to do the work as soon as possible the expiration wasn't an issue at this moment.

Boardmember Vink: Is there anyone in the audience who has any questions or comments? I guess not. Does anyone have any other questions? We're prepared to vote on this I take it? Mike (Liguori) do you feel that you've had a fair and adequate opportunity to be heard?

Mr. Liguori: I always do, if you know what I mean.

Boardmember Cassidy: And you understand that last time you were here we told you there would be no further extension.

Mr. Liguori: Yes, you were perfectly clear.

Boardmember Cassidy: OK.

Boardmember Vink: All right, I'll close the Public Hearing. Last time you were here you were told you couldn't have any more. It is work that needs to be done and it's getting done.

Boardmember Cassidy: I'm just afraid that if we go back on our word he won't trust us next time.

Boardmember Vink: I'll entertain any motions with respect to the application which is to extend the previously granted variances.

Boardmember Wunner: Do you have any idea how long the extension is? What are you asking for extension-wise to get the work completed?

Mr. Liguori: It's kind of interesting, they are no longer connected to each other because the Building Inspector had said 'look once you were approved to go into Blackberry you could do the work so the variances will allow us to get the Conditional Use Permit from the Planning Board now to finally legalize the apartment so I have to make an application to the Planning Board to get that Permit. Then that's it we're done, that's the end of the road so I don't know if there is really a need for a time.

Boardmember Wunner: Six months?

Mr. Liguori: No, we're going to apply to the Planning Board immediately, we're not going to wait on that. Once the variances are granted I think it's a fairly ministerial process to have the apartment.

Mr. Stephens: The Special Permit.

Mr. Liguori: The Special Permit... Conditional Use Permit.

Boardmember Vink: So, really, we're extending it one month to get your Special Permit.

Mr. Liguori: That's right, yes.

Mr. Stephens: It's a Conditional Use Permit.

Mr. Liguori: Conditional Use Permit.

Ms. Desidero: Which generally takes at least two Planning Board meetings and will require another 30 days for the County so it could be three Planning Board meetings.

Boardmember Vink: OK, so...

Ms. Desidero: I think they'll refer it to the County again because it's so old.

Mr. Stephens: I would recommend six months.

Mr. Liguori: Thank you.

Boardmember Vink: So I would say through the end of the year then.

Boardmember Cassidy: December 31.

Boardmember Vink: December 31.

Boardmember Cassidy: With an admonition that it will not be further extended.

Boardmember Gil: Don't make promises you can't keep

Boardmember Cassidy: Yeah.

The motion to grant the applicant an extension of the previously granted variances provided that a Conditional Use Permit is issued by December 31, 2019 was introduced by Boardmember Vink, seconded by Boardmember Cassidy.

Roll Call Vote:

G. Wunner In Favor

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

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.

The motion to approve the Meeting Minutes of May 13, 2019 meeting as corrected 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,
Cathy Chiudina
Victoria Desidero