VILLAGE OF HARRIMAN
ZONING BOARD OF APPEALS

1 Church Street, Harriman, New York 10926
(845) 783-4421, Ext 103

WEDNESDAY, AUGUST 6, 2025
MEETING BEGINS AT 7:30PM

1. EXECUTIVE SESSION
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ACCEPTANCE OF PREVIOUS MINUTES – JULY 2, 2025
5. CONTINUED PUBLIC HEARINGS
    a. 106-5-10 & 106-5-15, GARFIELD PLUMBING
    b. 101-2-1.12, MYL INVESTORS LLC

6. NEW BUSINESS
7. ACTION ON DECISIONS

NEXT ZONING BOARD OF APPEALS MEETING
IS SCHEDULED FOR
WEDNESDAY SEPTEMBER 3, 2025 @ 7:30PM

DEADLINE FOR COMPLETED SUBMISSION
FOR REVIEW IS DUE
BY 12:00PM ON AUGUST 19, 2025

Chairman Pettiford opened the Village of Harriman's August 6, 2025, Zoning Board of Appeals regular meeting at 7:32pm. He welcomed everyone followed by the Pledge of Allegiance and roll call.

Present: Chairman Pettiford, Member LaMarch, Member Santiago, Member Torres, Attorney DeJoy, and Secretary Hunter.

Absent: None

Chairman Pettiford made a MOTION to accept the minutes from July 2, 2025.
Second by Member Santiago, ALL IN FAVOR.

Minutes are attached from the recording stenographer for the following 2 agenda items:

106-5-10 & 106-5-15, 34 & 36 Route 17M – Garfield Plumbing

101-2-1.12, 200 Route 17M – MYL Investors, LLC

Member Santiago made a MOTION to close the regular meeting of August 6, 2025, at 9:05PM
Second by Chairperson Pettiford, ALL IN FAVOR.

Respectively submitted,

Maria C. Hunter
ZBA Secretary

APPEARANCES:

MICHAEL PETTIFORD	CHAIRMAN
AARON SANTIAGO	BOARD MEMBER
TRACEY TORRES	BOARD MEMBER
JUSTIN LAMARCH	BOARD MEMBER

ALSO PRESENT: Jonathan DeJoy, Village Attorney of The Village of Harriman, Maria Hunter, Zoning Board of Appeals Secretary, Village of Harriman. Dan Richmond, Esq., from Zarin & Steinmetz, LLP, John Loch, from AFR Engineering and Land Surveying, Neil Frishberg, Applicant's Attorney for 36 RT 17M, LLC, a/k/a, Garfield Plumbing.

THE CHAIRMAN: Good evening, everyone. I hereby, call the meeting of the Zoning Board of Appeals for the Village of Harriman. It is August 6th, at 7:32 p.m. And it's customary that I ask everyone to stand for the Pledge of Allegiance.

(Whereupon, The Pledge of Allegiance was said, by everyone in attendance, as of this date.)

THE CHAIRMAN: Thank you. Now, calling the rollcall for all the Members present.

MR. SANTIAGO: Aaron Santiago.

MS. TORRES: Tracey Torres.

MR. LAMARCH: Just Lamarch, Member.

THE CHAIRMAN: Michael Pettiford, Chairman.

MR. DEJOY: Jonathan DeJoy, I'm the Attorney for the Zoning Board.

MS. HUNTER: Maria Hunter, ZBA Secretary.

(Whereupon, a discussion was held off the record.)

(Back on the record.)

THE CHAIRMAN: Has everyone had a chance to review the previous minutes?

MR. LAMARCH: I made the motion to accept the minutes from the previous meeting.

MR. SANTIAGO: I second the motion.

THE CHAIRMAN: All in favor say, Aye.

MR. SANTIAGO: Aye.

MS. TORRES: Aye.

THE CHAIRMAN: Aye's, have it. I will accept the minutes from July 7th, 2025. I would like to acknowledge that there ongoing Public Hearing today. We're going to start off with 106-5-10 and 106-5-15, Garfield Plumbing.

MS. HUNTER: Mr. Chairman?

MR. CHAIRMAN: Yes.

MS. HUNTER: I have a sign in sheet, I ask everyone print clearly, their names. And also to speak loudly, so our Court Reporter can record all the information clearly.

THE CHAIRMAN: Yes, ma'am.

MR. FRISHBERG: Neil D. Frishberg,

Fabricant, Lipman and Frishberg, One Harriman, Square, Goshen, New York, for the Applicant. And I'm hear with John Loch. I believe we've already made a presentation before this Board. And you wanted to open up to the Public.

So, we would like to hear what they have to say. And perhaps we can address any concerns that the Public may have.

THE CHAIRMAN: That would be great.

As we heard the construction from the Secretary, if anyone from the Public would like to come up and speak their piece on --

MS. HUNTER: -- I would like to interject one more time.

MS. LICOTA: She has to go over here and then talk over here?

MS. HUNTER: Yes. To the table, into the microphone. I would like to interject for one second, for The Chairman.

For the record on July 31st --

MS. MILLER: -- I'm going to stand.

MS. HUNTER: Give me a moment, let

me finish with this, please.

MS. MILLER: Okay --

MS. LICOTA: Wait, Ma.

MS. HUNTER: Give me a second.

On July 31st, received a letter from David Miller Trustee and the Miller Family and from Laurinn Miller.

On August 4th, we received an e-mail from Deenia Steinman(Phonetic). And on August 5th, we received a letter from Mr. and Mrs. Patjagori(Phonetic).

I just wanted to make that aware to all the Board Members, have been e-mailed and hardcopies are in front of you. Just wanted to make note that is what we had received.

THE CHAIRMAN: Have all Board Members received a copy?

MR. SANTIAGO: I have.

THE CHAIRMAN: If not we have copies in front of us.

MR. SANTIAGO: I have.

MR. LAMARCH: I have.

MS. MILLER: Good evening, Members of the ZBA and Ladies and Gentlemen. My

name is Laurinn Miller and I live at 36 South Main Street, directly behind the property effected by the Garfield Plumbing variance request.

I want to begin by thanking The Board for an opportunity to speak tonight. I've served on the Zoning Board of Appeals for over 25 years as a Member and Chairperson. And I understand how difficult and important your work is.

I would also like to state, that we were not aware of any prior Public Hearings for this application, due to a problem with mail delivery. If we had received prior notice, I would have attended every single meeting.

This project directly effects my home. And based on my experience, I take zoning matters and imputes very seriously.

The Applicant is requesting to remove the required 25 foot buffer between the commercial and residential zones. This is not a minor design detail. This is a key protection in the zoning clause that exists to safeguard homes like mine.

Their plan admits that no buffer will be provided. And that they can't install screening due to a sewer line. If the site can't support the basic zoning requirements, then it is not appropriate for commercial expansion. That's not a hardship, it's a constraint of the site.

If this is approved it is a bad precedent going forward in the Village.

Thank you, for your time and service to the Village. And your thoughtful consideration of this matter.

THE CHAIRMAN: Thank you.

MS. SANTIAGO: Thank you.

MS. LICOTA: I'm Maureen Licota, I'm Laurinn's Daughter. 65 South Main Street. I want to know what -- I mean, these are zoning codes but what does Lot 2, Resident Lot, minimum lot area from 15,000 to 4,477, square feet mean?

Also rear setback, from 35 feet to 8.4, minimum lot width, to be built 4,840 feet to 10 feet. Yard setback 20 feet to 1.3 feet? And maximum lot coverage 10 percent up to 281 percent?

That's a big difference.

And, what we're worried about and concerned is, potential damage and future financial liability to beautiful mature trees. And other vegetation that supplies current screening. Unknown damage and financial cost that could occur to the retaining wall behind the garage. Without the appropriate buffer we would like to understand how we are protected from this problem?

The proposed buffer in the minutes looks to be about, eight foot from my property line. The proposed retaining wall, may be closer. The buffer is supposed to be 20 feet, between residential and commercial.

Overall, having a commercial property encroaching on residents without buffers and screenings, as required by zoning ordinances. Will have a permanent negative impact on our property value.

We ask the Board to consider these impacts as they deliberate on this request.

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THE CHAIRMAN: Thank you.
MS. LICOTA: You're welcome.
THE CHAIRMAN: The question brought up for the -- exactly -- what you mean, if -- if the buffer itself -- you guys care to answer any of that?
MR. FRISHBERG: It seems to me -- go ahead.
MR. LOCH: Go ahead.
MR. FRISHBERG: It seems to me, she wanted to know what it means. Um --
MS. LICOTA: Yeah, because it's like, gibberish. I need it in like, English, in plain terms, so that I can understand.
MR. FRISHBERG: That means, that the building's going to be closer to the front.
MS. LICOTA: Okay. That's a -- that's a problem.
MR. FRISHBERG: I understand that's a problem.
MS. LICOTA: Okay. All right. Thank you.
MR. FRISHBERG: That's what it

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means.
MS. LICOTA: Okay. And, what is the maximum lot coverage 20 percent up to 281 percent? What does that mean?
MR. FRISHBERG: That means, that the building's going to be larger, so it covers more space in the property. Than the zoning code say, "X" percentage of space -- you know -- this is bigger than that.
MS. LICOTA: Why can't everybody, not just you, everybody, just follow the laws that the Zoning Board has in place? Why does it have to be --
MR. DEJOY: -- Just to be clear, so, the Applicant recognizes that their proposal doesn't meet the zoning code. So, they're entitled to apply to this Board to seek variance.
And this Board evaluates each application -- um -- based on the materials submitted. So, it's up to this Board to decide in whether variances should be granted from the zoning code.
MR. FRISHBERG: If I could

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piggyback on that. We are following the law, because we recognize that the zoning doesn't permit what we want to do. That it's too close, under the zoning code, it's too close to somebody's property. Yours perhaps.
MS. LICOTA: Right.
MR. FRISHBERG: So, we're asking the Zoning Board of Appeals to correct an exception to allow us to ask for an exception to those rules. So, if we can show certain factors, they can. And if they choose too, they have a wide range of discretion to granting that.
But in doing so, they are allowed to and should, provide you with some protections in terms of screening and things like that. And we agree with you in that regard.
And nevertheless, we would like to expand, expand the building for our Client's business. And we understand that it's now closer to your property. And perhaps, we could find a middle ground that makes you happy. And accomplishes

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what we want to do.
MR. LOCH: If I can correct one of the things. What you were referring to as 281 percent, it's 28.1.
MS. LICOTA: Okay. Well, the way -- there was stuff in between like, the lines so -- I'm saying, on the minutes, the minutes, I got it off the minutes. I didn't see anything else.
MR. LOCH: That's rather a substantial numerical difference.
MR. FRISHBERG: If that was 281, that would be twice the size of the property.
MR. LOCH: Yes.
MR. DEJOY: Anyone else from the Public that would like to speak on this application? Does the Board have any other questions for the Applicant?
THE CHAIRMAN: Are we able to go and see?
MR. SANTIAGO: I did. I was there at the site. And Tracey, was there as well. We also saw.
THE CHAIRMAN: So, just that the

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Public is aware, site visits were made by members of the Zoning Board. We were able to see what the proposed Client is looking to get done on the property. Um -- today and based on that, is how we will make all our decisions, including taking in consideration how the Public feels.

Not only those that spoke today, those that have e-mailed and just -- an even if you're not willing to speak, by show of hands, who's here on behalf of speaking about the Garfield Plumbing issue?

Okay. Thank you.

MR. DEJOY: Does the Applicant have anything else they wish to present to the Board?

MR. FRISHBERG: Well.

MR. LOCH: Let me get a little closer to the mic here. Okay.

Just briefly, I'd like to address some of the items in the letters that we received. One of the things that seem to be a misconception is that, we're seeking to rezone property. That we're converting

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property to residential, to commercial zone. The reality is, what we're trying to do is, take the property of this already zoned commercial. And is currently attached to a residential use and reassign it to the commercial property.

We're trying to set it up so the property can be used in the matter in which it is zoned. We're not seeking a zone change. We are working with what the Village has collaborated in their zone.

With that being said, it does make this a somewhat unique property in that, compared to other commercial sites it is relatively small. It is also -- um -- the shape of it makes it somewhat difficult in terms of the utilization.

The main thing that really drove us in terms of looking for some relief with the buffer is, the parking. You're not allowed to have parking within the buffer. One of the things that the Applicant really needs at this site is, more parking.

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We are willing to do things within it, within the space available to try and -- um -- reduce the impacts. An example being, we were proposed getting parking, it will be lower than the existing ground there.

For example, it will be roughly, you'll have between a three and four foot high retaining wall in front of it. And level ground heading towards the Miller property. So, the parking is already somewhat depressed. We have no problem at all if The Board says, we want -- we would like, to see screening on that wall. We can do that, that's not an issue. We have the ability to do things like, fencing screen.

We do have issues with trying to put a lot of plantings in, because we're dealing with the sewer services next to there. At the same time, the Applicant is seeking the building, they're looking for more building for storage space.

It's not a facility that's used in any way for manufacturing or any

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processing. It's simply, some materials are stored there and some materials go out at varies times. It is, what the Applicant is doing with the majority of the building now. It is fairly quiet. You don't have a lot of noise coming out of that building.

And the side that we would head towards, the other residential properties, you're looking at a building sitting there. There's not that many outdoor activities around it.

Um -- we've already started doing some of the things trying to clean the site up. The Applicant now has the tenant out of that property. He's taken out four large roll off containers of debris and things. We're helping to make the place look a lot better.

So -- you know -- just looking at some of the things here, one, we're not really anticipating any facilitating cause in any increase in noise or traffic. We're not manufacturing, we're just storing material that gets drawn on a

regular basis. It will not change the noise level which you have now.

Um -- in terms of privacy, right now, we're taking that script and yes, we're proposing to put in buildings and parking. But we're not going to have activities that are exposed to the people surrounding.

A -- I do have something here, it says, the fire department was called concerning fumes emanating from the building. I asked the owner, he knows nothing about this. We're going to check if there's a report of it with the fire department. But we're not aware of this as an issue. We don't manufacturer, we don't assemble things there. Um -- I don't know what -- where that could have come from.

Now, one of the things is, the same Applicant, when they purchased this building in the front a number of years ago, that thing looked like, a real piece of garbage. It's been resided, it's been improved, it's been cleaned up. Is it

perfect, no. We're working on trying to improve things a little bit better. But to say that you've got negative impacts from a small addition in terms of property value, I don't see it. It's a nice clean building that we're looking at.

I'm trying to look at anything else that really falls out from this. I don't think there's anything else that I have to particularly address. But I really did find it -- incredible that two of these letters made it very clear that they thought, we were seeking to convert residential property over to something that's commercial. It's already commercial.

MS. LICOTA: Excuse me, can I ask a question? What part of that is commercial? I know where the house is. I'm very --

MR. LOCH: -- There's a map here that can make it clear to you.

MS. LICOTA: Can I look at it?

MR. LOCH: Certainly.

PUBLIC SPEAKER #1: So, that house

has been built on --

MS HUNTER: -- Excuse me, hold on, if you're speaking, one at a time. We have to have your names for the record, please.

PUBLIC SPEAKER #1: This is bullshit.

MR. LOCH: This is the overall of the property here, (Indicating) residential. With only, as one lot.

MS. LICOTA: Right.

MR. LOCH: That's it's own commercial residence.

MS. LICOTA: So -- you're talking

MR. LOCH: -- The zoning boundary is here. (Indicating)

MS. LICOTA: So, you mean, the grass --

MR. LOCH: -- Yes.

MS. LICOTA: -- the whole section of grass is, where the shed is, where the pool is, that's all residential?

MR. LOCH: No --

MS. LICOTA: -- I mean, all commercial?

MR. LOCH: -- that is commercial. That is all commercial zone. We are trying to get the property line to be coincidental with the zoning. And it's to solve a number of problems.

PUBLIC SPEAKER #1: This's crazy.

MR. LOCH: The biggest problem that my Client has found, he needs some parking.

MS. LICOTA: Right.

MR. LOCH: He wants to improve parking for both the residents. He can do it by building here (Indicating) and having an easement.

MS. LICOTA: Right.

MR. LOCH: And additional spaces for ourselves.

MS. LICOTA: Right.

MR. LOCH: He would like an addition because he buys things in bulk.

MS. LICOTA: I understand that.

MR. LOCH: For his plumbing. And it has tremendous economic benefits for him.

MS. LICOTA: Right.

MR. LOCH: But in terms of like, activities here, we don't anticipate any doors here. And we were discussing whether --

(Whereupon, an off the record discussion took place.)

MR. LOCH: We're trying to work with the zoning.

MS. LICOTA: But the building you're saying, looks so much better. It looks better than it did before. But it's still not kind of great, currently what's there.

PUBLIC SPEAKER #1: Agree.

MS. LICOTA: And I mean, it's not -- you know -- I'm at my Mother's every day. Sometimes three or four times a day.

MR. LOCH: Is there something you would find more appealable in terms of building? I mean, in terms of architectural style?

MS. LICOTA: I don't know. I mean, I know, you don't want to spend -- but isn't there also supposed to be a loading

dock on here? Some sort of -- in the minutes something -- what about --

MR. FRISHBERG: No, no.

MS. LICOTA: And there was something with -- some tanks are going to be stored outside?

MR. LOCH: They're already there.

MS LICOTA: There going to be moved or something?

MR. LOCH: No. They will stay right there.

MS. LICOTA: Okay. Right over here(Indicating), there's a small cage. I mean, I've walked by it every day.

MR. LOCH: A small cage, is where they put the various gas tanks, they use for plumbing.

MS. LICOTA: Okay.

MR. LOCH: And it's not considered safe to store those inside the building.

MS. LICOTA: Right.

MR. LOCH: We received variance that allowed that limited outdoor storage, somewhere around 10 years ago.

MS. LICOTA: Okay.

MR. LOCH: And we've had no issues with it. We don't plan on moving it.

Now, in terms of loading. Currently, we have one garage door here.(Indicating) If we get the additional approval, we would have another garage door next to it. There would be nothing that's coming from around this side of the building.

And it's -- they come in through here.(Indicating) this -- would be no activities there.

MS. LICOTA: Okay.

MR. FRISHBERG: Where is your Mom's house?

MS. LICOTA: Miller?

MR. LOCH: Back in here.(Indicating)

MR. FRISHBERG: Isn't this house over here or something?(Indicating)

MR. LOCH: Actually, I'm going to flip to another exhibit.

MS. LICOTA: So, if you're in the back --

MR. LOCH: -- This is an aerial

photo of the place, where I hold the map. This is the house, this is their garage.(Indicating) This is another garage they have.(Indicating)

MR. FRISHBERG: So, the buffer would impact on the house, that would still be this far?

MS. LICOTA: No. We have -- so, the house is here and we have a bunch of property behind here. So, you would have to clear where the fence is.(Indicating)

MR. FRISHBERG: Okay. I understand, I understand.

MS. LICOTA: No, no.

MR. FRISHBERG: You have the two sheds closest to the property line?

MS. LICOTA: The two garages?

MR. LOCH: They're not that close.

MR. FRISHBERG: They're not that close.

MS. LICOTA: No, no. Believe me we got permits, personal. And I'm just letting you know, we have everything that was needed.

THE CHAIRMAN: What is your name?

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MS. HUNTER: Please come up and sign your name, thank you.

MS. ALBERTO: Jennifer Alberto.

THE CHAIRMAN: Address?

MS. ALBERTO: 42 South Main Street.

THE CHAIRMAN: Okay. Just sign, thank you.

MS. ALBERTO: Just a quick question. When was the -- it turned into a commercial property? Because none of us knew that.

MR. LOCH: Oh, this has been a commercial property for a long, long, time. I mean --

MR. FRISHBERG: -- Decades, right?

MR. LOCH: Yeah, this has been a commercial property for decades. I don't know when the municipality adopted the zoning. But I know this was commercial 15 years ago when locating stuff on this site.

MR. FRISHBERG: My understanding, this entire strip is commercial.

MR. LOCH: Yeah, there's a strip that they tried to do that was -- it's

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kind of odd. Um -- it looked like, they were going for something a certain distance, back parallel to the road. But then, they did certain jobs in and out. I don't know the exact logic behind it when the builders did that. But this has been commercial for quite a while.

MS ALBERTO: And I did hear you say that, additional parking? Is it needed? Because more cars will be entering in there. It sounds -- a little bit of commonsense.

MR. LOCH: In terms of how the gentleman is working. Most of his employees will come into the shop once a day. And a lot of them, some of them, will take their trucks home.

He now has switched things where he's generally keeping two trucks at site, overnight. And then, what he ends up with is, four employees come in, they leave their cars and they go out in those trucks. So, we've found that we do need a little more parking then we've had.

And also, there's always been a

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very strained relationship in terms of, how parking was provided for in terms of this residence. They had a very vague easement. It basically said, there were certain rights to ingress and egress. And it didn't define where and how.

And, when we did the site plan on this project, probably in the range of 10 years ago or more. We were unable to reach an agreement with the owner of the property, to do anything to change that. And the Board recognized we had no ability to force that.

But essentially, the owner of this commercial site, bought the residential property with a friendly corporation. And we're trying to see what we can do to solve the problem with parking. And, yes, he would like more storage space.

MS. ALBERTO: Thank you, for your answer.

MS. LICOTA: So, you're going to have parking for the residents, also?

MR. LOCH: Yes.

MS. LICOTA: So, how are you going

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to separate that from this commercial building you're dealing with? Because right now, it's one driveway, for everybody. So, how are you gonna have the people that -- whoever he's going to rent it, how will they get into their property?

MR. LOCH: It's still going to be coming in, one entrance. It's going to be the same entrance they're using now.

MS. LICOTA: How will -- he's going to do this as a single family? How's he gonna rent it? Like, a family like, me and my --

MR. LOCH: -- I believe it has a deed for a single family. And I think that's how he can rent it out as.

MS. LICOTA: Will that be followed? Or will be -- you know --

MR. LOCH: -- I would presume so.

MS. LICOTA: I was just asking. Okay.

MR. FRISHBERG: He's been a pretty good citizen. As far as I know, he hasn't violated any zoning rules. No violations.

MR. LOCH: I mean, he's had issues

that he tries to address it. So.

MS. LICOTA: Yeah. I did see the cleaning of the house. But it's an eyesore.

MR. LOCH: It is. And the only --

MS. LICOTA: -- It has been. And that's why I planted so much stuff to try and block that.

MR. LOCH: Basically, when he purchased it, he had an agreement in place that the existing owner remained as a tenant for a period of time. That is only recently expired.

MS. LICOTA: Right, I know that. I know.

MR. LOCH: The gentleman, moved out. And he's now on the fourth dumpster filling, if you may.

MS. LICOTA: Yeah, I know.

MR. LOCH: The pool is gone.

MS. LICOTA: The pool is gone already?

MR. LOCH: Yes. The sheds will probably be gone soon.

MR. MGRTH: Terrance Mgrth, 64

South Main Street. Um -- you stated that you were going to lower the actual site? To accommodate for parking and the retaining wall, right? I was just curious if they're gonna lower that slope? You'll have a lot of run off from 17, onto that property.

What type of water containment, run off containment, are you looking to install, between that commercial property and that preexisting nonconforming residential property?

MR. LOCH: Okay. Let me flip the plan. And I can give you a partial answer because we don't have a full answer at this point.

All right. Right now, let me see if I can get to a different sheet of drawings. A --

MR. MGRTH: You know, are you going to file like, a flood plan or something like that? Because there is a lot of run off on that road there. And it does lack sewer.

MR. FRISHBERG: I think, well --

MR. MGRTH: -- So, if you're building a wall, a containment wall, what type of infrastructure are you gonna put in the ground, to absorb that run off? So, it doesn't travel to the wall?

MR. LOCH: I have a fairly good answer for that. Right now, you have a retaining wall here(Indicating) that's in range of four foot high. And there is -- once it ends the masonry here(Indicating) you actually have stone and rubble and stuff here.

And basically, the grade jumps from the existing pavement up to the wall, about three, three and a half feet.

MR. MGRTH: Okay.

MR. LOCH: All we're gonna do is, we're going to cut that back a little further here.(Indicating) And everything that comes in here, will not bleed out to the back.

MR. MGRTH: Okay. But you'll have to have some type of containment or else it's going to run to the preexisting residential property.

MR. LOCH: No. Actually, the way the grading is going to work, it's probably going to end up existing here,(Indicating) at some form of sheet flow.

MR. MGRTH: Sheet flow, onto someone else's property? On the preexisting property next door?

MR. LOCH: Which is what happens now. There is no storm drainage system that this is connected to at this point.

MR. MGRTH: Well, I'm just saying, if you're looking to expand your parking, it might be something that you want to take into consideration. Because you're taking away a nature flood plain by changing the elevation.

MR. LOCH: I understand what you're saying. It's not something that --

MR. MGRTH: -- So, if I was the neighbor next door and you change your elevation and then there becomes a problem with the run off, it might be fine right now. But we do get heavy rains.

MR. LOCH: I do understand the

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concern.

MR. MGRTH: And that driveway dips down and then you have a containment wall there. Which is going to stops the natural flow of the water going down. And it's going to divert it around the pitch, on someone else's property. So, that's something that you should take into consideration.

You know -- or else it's going to go into this preexisting, residential property. Which he wants to keep as a residential property. Because he wants to keep the existing residential property, even though it doesn't conform --

MR. LOCH: -- Right now, this pitch is this way.(Indicating)

MR MGRTH: Okay. So, then it will flood back to your containment wall and then flood onto someone else's property.

MR. LOCH: All this way.(Indicating)

MR. FRISHBERG: This is 17?

MR. MGRTH: No, no -- 17 that's elevated. It's elevated quite a bit.

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MR. LOCH: Okay. That is an issue -- this whole thing, in the terms of physical construction, will end up in front of The Planning Board. And we will, at that point address --

MR. MGRTH: -- Well, that's something that -- you know -- we deal with -- we deal with water issues down there as it is now, South Main Street. When it floods it comes down -- you know -- there's been complaints about it.

And actually, Ms. Miller's, that's where it floods, in front of her house. So, that's something that if we're having a run off coming down the side of the properties -- you know -- it's also going to effect several people's properties here. So, that's something that should be taken into consideration with this site plan.

MR. LOCH: It will be considered in site plan. It's not something that we were considering. And we were in --

MR. MGRTH: -- I mean --

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MR. DEJOY: If I could just interrupt. So, this Board doesn't have any site plan review power.

MR. MGRTH: Oh, no, I know. I was a previous Planning Board Member for the Village. I understand that. I'm just bringing it up with him, because this is a public forum.

MR. SANTIAGO: Yes.

MR. MGRTH: I figure if I address it with him, he'll be able to address those conditions. Because I'm sure the Planning Board is going to bring up the conditions.

MR. LOCH: Actually, the Planning Board --

MR. MGRTH: -- Years ago, when I was on the Planning Board, run off, on all these sites, the condo complex, Town Court Park, I believe it was, right? We had runoff issues with that property. That's why they have a catch basin there.

Okay. There was runoff issues with Lexington Hills. And that was a big concern when the condo was planned. I was

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on The Planning Board for a couple of years, years ago, so I know this was an issue.

So, I just wanted to bring it up because I know The Planning Board will address it. So, I would rather these people have an answer for it when they go before The Planning Board.

MR. LOCH: We do recognize that. And the Planning Board would view this before we came here.

MR. MGRTH: Are they changing the lighting or anything on this property?

MR. LOCH: We may end up doing something regarding sun lighting, on the parking area.

MR. MGRTH: Okay. So, that's going to be downward directional? So, it doesn't infiltrate to residential property?

So, this property is going to have be taken in. Because it's going to be maintained as a residential property. So, any lighting should only be directed at the commercial downward, at the commercial

property. Rather than, flooding the property.

THE CHAIRMAN: Lawrence?

MR. LOCH: If I may, we will address those things as part of the --

MR. SANTIAGO: -- They will only get to that point for the ZBA.

MR. LOCH: -- of the zoning by addressing.

MR. MGRTH: Well, I feel that I'm bringing it up in a public forum. This way, it could be address. Because these are issues that effect the area.

MR. LOCH: I appreciate your concern.

MR. MGRTH: That it's not only effecting this commercial property, it's effecting a preexisting -- the site plan is preexisting, nonconforming, right now. And we have a residential property. So, if he's going to maintain it as a residential property then there's --

MR. DEJOY: -- So --

THE CHAIRMAN: -- Excuse me. Excuse me, guys.

MR.GRTH: The same concerns were given to other residential properties, should be given to that property.

THE CHAIRMAN: We understand. So, we're here to discuss the Zoning Board of Appeals --

MR. MGRTH: -- I know.

THE CHAIRMAN: I understand that you have experience elsewhere.

MR. MGRTH: I just wanted to get it out there in a public forum. I appreciate your time. Thank you.

THE CHAIRMAN: Is there anyone else from the Public who would like to speak on this issue?

Yes, sir?

MR. SANTIAGO: Certain matters and I love to see the community's presence here tonight. We had a lot of things a couple of meetings on. And personally, I did do a site visit there. So, I know what you're talking about with the grading. It only gets to that part.

MR. MGRTH: With the Planning Board, I understand. At least it's in the

minutes for the ZBA.

MR. SANTIAGO: Sure. It's valid points. I don't want you to think that we don't hear you. And we don't appreciate all the communities involvement.

MR. MGRTH: I understand.

MR. SANTIAGO: So, we really appreciate it, thank you, sir.

MR. DEJOY: Looks like the Applicant wants to be heard?

MR. FRISHBERG: Yes.

MR. DEJOY: Go ahead.

MR. FRISHBERG: So, I heard people loud and clear, in terms of their concern about the buffer. Um -- I think that -- um -- we could proceed. You guys can -- the Zoning Board can proceed, in the manner, if you can. If acceptable to you, withdraw without prejudice, reserving the application for the building? And ask for you to vote on the variances needed for parking.

MR. LOCH: Parking and subdivision.

MR. FRISHBERG: Parking and subdivision. That would alleviate the

Public's concern. Because I hear them loud and clear, particularly, the Miller property about the buffer issue. Um -- so it seems to me that you could just address the parking issue.

MR. DEJOY: Sure. Just to be clear so we're still on the same page. You want to withdraw the portion of the application that goes to the building?

MR. FRISHBERG: Right.

MR. DEJOY: That would terminate in the setback variance, but you would still need the buffer hearings?

MR. FRISHBERG: That's right. That's right. It seems to me that in doing so, this Board has a cheat sheet if you want for the Board. I can hand it out.

MR. DEJOY: So, my question would be then, if you are going to eliminate the expansion of the building, would it be kept the same as it currently is on the plans? Or would you intend to modify it?

MR. LOCH: I pretty much have to keep it on the plan. There's really no

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modification to be made in terms of flow of traffic. And keep in mind, we'd also still be going back to The Planning Board.

MR. DEJOY: Sure.

MR. FRISHBERG: So, in terms of impact on the neighbors, it would have a very small impact on the neighbors.

MS. HUNTER: You have an extra copy for the Secretary, please?

MR. FRISHBERG: I have a -- this is what I have. I have my own personal cheat sheet. (Handing)

MS. HUNTER: This is what you're passing this to everybody?

MR. FRISHBERG: Yes. This is blank. And what I plan on using for my summary. You can use it for your own cheat sheets later. When I was in the ZBA, I created it.

So, this is before the ZBA, for the benefit of the Applicant, that the variance is granted, that the detriment to the health, safety and welfare of the neighborhood. In making that determination the Board has to consider

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the undesirable change, benefit without the area variance in totality, adverse impact on self creation.

Those -- um -- those are not exclusive, like, the use variance if -- the -- for example, if the variance is self created, it doesn't make it an automatic denial.

Here the benefit to the Applicant is clearly they need the -- extra parking for the flow of traffic. They need an extra -- they need the extra parking for the flow of traffic. Because it's the -- as Mr. Loch explained, they have people coming in and out of the property. They need to park their cars and grab trucks.

That's really it. They can't do this any other way. Because there's no parking on that street. There's no one -- it doesn't effect the health of the neighborhood, it doesn't effect the safety, it doesn't effect the welfare of anybody.

There's no undesirable change. The

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parking can't be seen from the street. There's already space for parking on that property, already. This is just adding another, how many spaces, John? Two, three, maybe?

MR. LOCH: No. It's adding more than that.

MR. MGRTH: Lower range?

MS. HUNTER: Five to four, to 16 or 17? Yeah, that's a lot of spots.

MR. FRISHBERG: We're getting 16 spaces but -- it's not -- there's no undesirable change, in terms of the neighborhood itself. There's already parking there. And parking used by the residential spaces. So, these spaces would be used by the residential spaces as well.

We need the area variance. We can't have the parking without the area variance. The area variance is somewhat substantial, yes, it is. It's somewhat substantial but that's not dispositive.

There's no adverse impact or effect. In other words, we will not have

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an adverse impact of a physical or environmental conditions of the neighborhood. Certainly, you get to see the parking from the street. Um -- the neighbors will see a couple more cars but that's about it.

Yes, it's self created. But that's not dispositive. Um -- I'm hearing people loud and clear, in terms of their concerned about the privacy. They're concerned about what the place is going to look like.

I think we can agree, that the place -- because of the person that occupied the house, was a bit of a mess. I walked it, everybody here has seen it. We're cleaning it up, it's better. They're going to have a better view of it.

Um -- no one's house is directly on the -- on the boarder line. It's setback quite a bit. So, everyone's privacy is protected. When they look out, they see a building, they'll see a couple of parked cars. That's really about it.

MR. LOCH: Actually, we're going to

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put screening on the top of the wall.

MR. FRISHBERG: Oh.

MR. LOCH: And you won't even see the cars.

MR. FRISHBERG: Even better. You won't see the cars.

MR. LOCH: I don't know if that's something that this Board would want to condition. In the terms of screening on there? Or if that's something that you would just rather advise The Planning Board? So, that the details of what gets put in for screening. What type of fence or material they worked out.

MR. FRISHBERG: So, it would be better for the homeowners. They would see screening instead of junk in a yard. Which is what they see now.

MS. LICOTA: You're talking about the parking stuff? And residential spots there?

MR. FRISHBERG: Yes.

THE CHAIRMAN: Ma'am, one second.

MR. SANTIAGO: Can you just give me the measurement to the building itself, to

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Route 17? And I don't have a copy of the minutes.

MR. LOCH: In the front?

MR. SANTIAGO: Yeah.

MR. LOCH: You mean, to the property line? Or to the actual Route 17?

MR. SANTIAGO: No, to the property line.

MR. LOCH: 21.9.

MR. SANTIAGO: Would it be feasible because one of the characteristics seeking the variance is that, there's no other means of finding a way, right?

MR. LOCH: 21.9, is too narrow to put anything other that stacked parking. Also, you generally, don't want parking in the front yard. In terms of permissibility. Plus --

MR. SANTIAGO: -- The Attorney said, you we're only getting two spots any way?

MR. FRISHBERG: No, I was wrong.

MR. SANTIAGO: Oh, okay.

MR. LOCH: Close to 16. The other issue is that we do have a door up here

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that is used periodically, for loading certain materials in and out. So, that's why we kept this paved.(Indicating)

There are some vehicles because of the shortage of parking being put there sometimes. We're trying to get rid of that problem.

MR. FRISHBERG: John, correct me if I'm am wrong, aren't there vehicles on the Route 17 side? That should not be there?

MR. LOCH: Yes. We're trying to get those into parking spaces.

MR. FRISHBERG: I remember seeing the building on the Route 17 side.

MR. LOCH: Yes. That's one of the reasons why we're short on parking. We're trying to solve this problem.

MR. FRISHBERG: Right.

MR. DEJOY: All right. Would anybody else from the Public like to speak? Last opportunity? Before The Board can take any action. We have to close the Hearing this is the final opportunity.

MS. LICOTA: I just wanted to let

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you know, for parking. Because you were saying, there are spots for residential and we're using that. So, if they're only gonna have, let's say, one family living there, why can't they use the existing driveway that's there? And have them park there?

And, where the cars are, on the side of the building, that's all paved. Where you're saying on the 17 side. So, like, the building's here(Indicating) and there's a blacktop area. And there's a few cars there. They've been there for months and months. Probably, years.

And -- you know -- even there -- you know -- that screening like, on 17, that barrier reeds or whatever that's in front of the building to block it; is an eyesore. And I know 17, came and chopped it. And it was just left there.

And then, the Village had to come and remove it because it was in the middle of the road. Which -- you know -- was wrong on the State side, too. It

just -- it doesn't look appealing looking. I would rather see the cars parked there than see this massive, overgrown, trees and bushes, shrubs, whatever it is.

Because there on the side of the building. It's not like, they're in a fire lane. And there's no restriction for the parking. And that could solve some of the issue. And you wouldn't need these 16 spots.

MR. LOCH: Well, we're trying to put in the parking spaces for the Village's ordinance. And keep them within the commercial zone. And you can't really fit legal parking spaces in the front here.(Indicating) In terms of the conventional requirements, being able to get a vehicle in and out.

If you park a vehicle right here, right now,(Indicating) pretty much, as soon as one is parked behind it, he's stuck.

MS. LICOTA: We all come and go at the same time.

MR. LOCH: Yeah. We're trying to

do it in a way that is clean, neat and allowed under the zoning. I mean, we still have some issues to work out. If you're concerned about the screening in the front, I would invite you, to come to The Planning Board Meting. There'll be a Public Hearing about it.

We've had some ideas in terms of screening. We have to find something here that would be pliable to The Planning Board and also New York State DOT, would have some input on this.

MS. LICOTA: Right.

MR. LOCH: But that is not a zoning issue.

MS. LICOTA: Right. I know, I'm just saying. In terms of parking -- you know -- where they're parking now. Because they all come in the same time and they all leave in trucks. And they all come back at the same time, pretty much.

So, you're saying, one is blocked behind the other. But there are vans pulling in there, seven, eight, nine, o'clock at night, sometimes. And they're

there early, like, 6:30, seven.

MR. LOCH: I know there's two vans, right now, that's coming in and out of there --

MS. LICOTA: -- Yeah, I saw.

MR. LOCH: -- in terms of regularly parked there. He has probably another, six to eight, vans that at some point during the day, come.

MS. LICOTA: Yeah, yeah.

MR. LOCH: They don't come necessarily first thing or late in. They have them staggered. They come in, they pick up there bin, what's been laid out for the matter of supplies for them.

And the bulk of their jobs actually, are large, residential. And they have the bulk of the materials all delivered directly to the site. So, it's not a lot of stuff that comes here and goes.

What it balls down to is, much, much, economically for him to sit there and say, I'll buy a whole container of elbows, T's, whatever and store them here

and feed them out.

MS. LICOTA: Right.

MR. LOCH: So, in that respect, it's a quiet operation.

MS. BEAL: Do I have to give my name?

THE CHAIRMAN: Yes.

MS. BEAL: My name is Lynne Beal.

MS. HUNTER: Can you please sign in at the table. And speak into the microphone.

MS. BEAL: I live on the next block but -- um -- my address is 2 Myer Avenue, in Harriman. And my question is, are the people who live in the residence designated parking? Like, are they allowed to park anywhere in the residential area?

MR. LOCH: Right. Now, they have a very vaguely written easement that says, they have the right to -- kind of drive through here and park(Indicating) And it doesn't have any explicit spaces and things.

Once we finalize exactly where

everything will be, we will have the parking spaces that will be assigned to the residences. It will create the appropriate easement and things for that.

MS. BEAL: Okay. But would probably like, two spaces for a normal residence?

MR. LOCH: Yes.

MS. BEAL: Okay, thank you.

MR. DEJOY: Anyone else from the Public? No.

All right. Then, at this time it would be appropriate to make a motion to close the Public Hearing.

THE CHAIRMAN: I make a motion to close the Public Hearing. On the Garfield Plumbing.

MS. TORRES: I second that motion.

MR. DEJOY: All in favor?

MR. SANTIAGO: Aye.

MS. TORRES: Aye.

MR. LAMARCH: Aye.

MR. DEJOY: All right. So, the next step procedurally, is a SEQRA determination. At the previous meeting,

they were negative declaration for the application that appears to be appropriate. So, with that in mind, is there an motion to adopt a negative declaration in SEQRA?

MR. SANTIAGO: I will second that motion.

THE CHAIRMAN: I second.

MR. DEJOY: All in favor?

MS. TORRES: Aye.

MR. LAMARCH: Aye.

MR. DEJOY: If the Board is so inclined to vote on the variances. Since we have a variety of variances here. One, for the commercial lot. And five, being for the residential lot.

Maybe it makes sense to start with the commercial lot variance. And then, go on the five variances for the residential.

Would anybody like me to go through the five factors before you vote?

THE CHAIRMAN: Yeah, so the Public can get an idea how we determine.

MR. DEJOY: The Board has to evaluate five factors in deciding to grant

the variance. And those factors are, whether an undesirable change will be produced in terms of the character of the community.

Whether the variance is substantial. Whether there are any reasonable alternatives for the Applicant to pursue.

Whether there will be any adverse impacts on the environment. And whether the hardship was self created.

So, with that being said, if somebody wants to make a motion to either approve or deny the buffer variance, for the commercial lot? Feel free to go ahead and do so.

Along with your vote, try to go through the five factors as best you can. And articulate why you're voting, yes or no.

THE CHAIRMAN: Tracey, you want to lead off -- do we do -- we --

MS. TORRES: I can read them off?

MR. DEJOY: Sure. It's up to the Board, but I would suggest starting with

the -- just the buffer variance for the commercial lot. Which is -- um -- reducing the 20 foot buffer, required by the code to zero. Which is for the parking spaces.

MR. SANTIAGO: A -- I'm going to make a motion to -- a -- to not approve the -- the buffer variance. There's five characteristics --

MR. DEJOY: -- Sorry, before you go any further. So, there's a motion to deny the variance, is there a second?

MS. TORRES: I second it.

MR. DEJOY: All right. Each member starting with the Chairman, wants to go through it and explain their vote to us.

THE CHAIRMAN: Sure, I'll start.

In making the determination, the Board has to consider is there an undesirable change. Considering the expanding of the buffer to 20 feet to zero. Not having that buffer on the property -- seems to -- seems to be -- a huge issue. It seems to be a huge issue.

With that being said, I do believe

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it will create an undesirable change in the community. The benefit without the area variance, whether the variance sought by the Applicant can be achieved by some manner feasible to pursue other than an area variance.

I don't believe that you will be able to get the parking space you need outside of creating it. If this business owner plans to expand -- his storage facility that's on the property -- um -- and have more -- have more business, I don't see any other way to -- get that done.

Outside of -- you know -- creating more parking spaces within the allotted zoning that you have. Whether it be commercial or residential sustainability. Whether the created area variance is substantial.

A -- I think that's -- almost to be determined, right? So -- people in the community have brought up -- you know -- flooding. If exchanging the levels here, right. So, I don't know if we can sustain

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the area.

Um -- in what concerns of two inch -- a lot of which has to go through the Zoning Board. That really wouldn't be a -- I'm sorry, The Planning Board. I believe that wouldn't be a ZBA issue. But -- and we will make a determination based on what the ZBA can actually control.

Adverse impact or effects, whether the proposed variance will have an adverse impact or effects on the physical or environmental conditions of the neighborhood or district.

It's my belief that having no buffer between the commercial and residential property is -- an -- I don't believe that will look good entirely. I don't believe it will look good.

And I understand that you guys are working in the confounds of what the zoning is. I just don't believe that will look good, whether the alleged difficulty was self created. You guys have already acknowledged, yes, it was self created.

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You want to expand the business in that area particularly. You understand it will be separate.

So, as far as my vote, I'm going to say, I deny the variance to create a zero buffer.

MR. DEJOY: Aaron?

MR. SANTIAGO: Good evening, everyone. A -- I also voted to deny the buffer variance. Um -- I think the Public here has expressed just the -- the -- people here have expressed it's going to create an undesirable change in the neighborhood.

Um -- and it could potentially detriment other property nearby. Whether, via, rain water runoff or sound or multiple multitude of things.

Um -- the benefit of the area variance, I do understand -- um -- and I get it. It's tough in that property. I walked it myself. Like, I said, it's really you guys are -- you have your work cut out for you, John.

Um -- the sustainability

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whether -- whether the requested area variance is substantial? We know it's substantial. It's taking that buffer down to zero. So, it is substantial. We're not splitting hairs here. It's not feet. You're taking, taking it down to nothing.

Um -- adverse impact or effect whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions on the neighborhood or district. As we already spoke on, I definitely think it will.

Not in just that, mainly but the traffic in that area. With the addition of parking spots. What are they for? We don't create parking spots because we feel like creating them. So, there will be additional traffic there, we both know it.

As you stated before -- you know -- this was self created type of issue. For that, again, I have to deny the variance.

MR. DEJOY: Thank you, Aaron. Tracey?

MS. TORRES: Hi, I'm Tracey Torres. I also say, no, to the variance. Pretty

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much, the things that we heard here. Um -- undesirable change. I mean, the fact that so many people came here to be present. As well as, the e-mails that I read coming in.

Um -- there seems to be a strong concern from the community, that they don't want this change. And I think their input is important. Benefit without the area variance. If the Applicant can be achieved by another way -- just like said, it's a tough situation. But the property has been there a long time.

If that area does get cleaned up, maybe -- you know -- there's another way where you can manage to create parking. That's a little bit more organized.

Substantiality, of the requested variances. Like, you said, going straight down to zero, seems like it was a big change that was needed. The impact, we heard it here and we saw it.

As far as visionally, what is it going to look like? Is it that people are looking at a building? But I don't know

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-- you know -- what -- what people want to look at -- you know -- versus -- you know -- trees or something more visually, nature wise, pleasant. And, yes, I do agree it was self created. Thank you.

MR. DEJOY: Thank you. Justin?

MR. LAMARCH: I'm going to have to agree with my other Board Members, no, on the variance. Due to -- you know -- you know -- the public came out tonight and a -- and spoke a lot of concerns about the -- you know -- the property.

Um -- the Board has -- you know -- walked the property -- you know -- there's -- you know -- it's -- it's a rough property, I'm not going to lie. You know, when I walked the property, I kind of got a better view of what you guys are asking for and things like that.

It's an undesirable -- um -- you know -- I have to -- you know -- my fellow Board Members actually said everything that I was going to say, so.

MR. DEJOY: All right. So, the

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Board has voted to deny the buffer variance for the commercial lot. That still leaves us with the five variances for the residential lot. Which are created, not as a result of new construction but just from the proposed subdivision.

It's really more of a lot line change. Does somebody want to make a motion on those variances for the residential lot? So, sure I can read them again.

One, minimum lot area to reduce the minimum to 15,000, square feet to 43,177, square feet. With a minimum lot of 100 feet to 48.6. A setback from 40 feet, to 10 feet. Side yard setback from 20 feet to 1.3 feet. And lot coverage from 20 percent to 28.

And again, these variances don't list any new construction. It's just and rearranging the lot lines. And so, the Applicant is not proposing anything that would change it.

MR. SANTIAGO: Is that what is

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represented on the photo there?(Indicating)

MR. DEJOY: On the plans, yeah.

MR. SANTIAGO: That's the green line, correct?

MR. DEJOY: I believe so. (Indicating)

MR. FRISHBERG: We're not changing where the building is.

MR. SANTIAGO: No, no, I understand.

MR. LOCH: This property line here(Indicating) and create the line here.(Indicating)

MR. SANTIAGO: Right.

MR. FRISHBERG: This way the entire commercial building is actually in commercial.

MR. LOCH: The entire commercial property is one line.

MR. SANTIAGO: I know one car garage to that one residential structure. How much space does that have? Because technically, they're going to be parking on another person's property.

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MR. FRISHBERG: That was the easement condition, wasn't it?

MR. SANTIAGO: The easement comes up for the right of way to use the road. It does not give a right of way -- I don't know how two is written.

MR. DEJOY: That's really private property issue, that's up to the Applicant.

MR. SANTIAGO: Okay.

MR. FRISHBERG: And the Applicant does own both properties.

MR. LOCH: In separate corporations. They're friendly.

MR. FRISHBERG: Separate corporations, right.

MR. DEJOY: All right. We have a motion on those five variances for the residential lot?

THE CHAIRMAN: I would like to make a motion to -- vote on the five variances.

MS. TORRES: I second that motion.

THE CHAIRMAN: I'll get started. In making such determination, the Board shall consider if the variance will create

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an undesirable change. If that will be produced by the character of the neighborhood. Or detriment to the nearby properties by granting of the area variance.

In this particular case, it seems like, you're working within the confines of what you already have. And you're just moving things around. And in my opinion -- I would -- I would vote, yes, for the variance.

On that benefit without variance. Whether the benefit sought by the Applicant can be achieved in some way feasible for the area variance. And I don't believe you have a choice to work with what you have.

Substantiality, this does not seem as substantial as the zero buffer, that you were requesting before. And -- um -- although each of these variances stand alone, they're for the buffer in particular. I don't see it as something that is substantial. As it is, you're working already, working within the

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commercial and residential allotted zones.

Adverse impact or effects. Whether the proposed variance will have an adverse effect on the physical environmental conditions, yes. Any changes -- you know -- are going to -- have an effect. I'm still voting, yes. And whether it's self created, yes. So, my vote on variances.

MR. DEJOY: So, this is for all five of the variances.

THE CHAIRMAN: So, I vote, yes, for the variance. Thank you.

MR. DEJOY: Thank you. Aaron?

MR. SANTIAGO: You'll have to forgive me. I have another quick -- so, if there's nothing going to built on it, no parking lot, no building or anything like that, what's the purpose of seeking the variance?

MR. DEJOY: So, maybe, I can answer that -- they want to move the property line to be in conformance with the zoning district boundaries. And as a result of doing that, it requires them to seek the

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variances. So, it's really just the change on the paper.

MR. SANTIAGO: Okay. I understand. In that case, I'm also going to agree. To the extent that I think, it doesn't represent any a -- I'm go to agree to approve the variance. It represents no undesirable change to the community in my opinion.

I don't know exactly, what benefit it's with the structure. No parking lot being built. It's not substantial or overzealous in any way. And I don't think it adversely impacts our community. And obviously, it's up to the Applicant, so.

MR. DEJOY: All right. Tracey?

MS. TORRES: I also agree. I feel like, desirable change will not be an issue. Benefit, there's nothing else you guys can do. This is the most feasible thing to do. And substantiality as well.

No adverse impact to the physical environment conditions. And also not self created. This is kind of what you inherited.

MR. DEJOY: All right. Thank you. Justin?

MR. LAMARCH: I also agree. There's no -- it's not hurting -- um -- you know -- everybody said what I was going to say -- you know -- it's not going to effect, that's my vote.

MR. DEJOY: Thank you, Justin. The last step is, I would recommend that the Board make a motion to authorize my office to prepare a written resolution. Just to memorialize tonights bill.

THE CHAIRMAN: I would like to make a motion to -- have a written resolution.

MR. SANTIAGO: I'll second that motion for our Attorney.

MR. DEJOY: All right. All in favor?

THE CHAIRMAN: Aye.

MR. LARMARCH: Aye.

MS. TORRES: Aye.

MS. HUNTER: Question, to be signed?

MR. DEJOY: At the next meeting. All right. That concludes this

application.

MR. FRISHBERG: Thank you, for your time.

THE CHAIRMAN: Next up on the continued Public Hearing, we have MYL Investors, 101-102.

MR. DEJOY: Just before the Applicant gets started, I just wanted to point out Mr. Loch, happens to be the same Engineer for this project, as the last project. And for the two projects have no relation, otherwise.

MR. LOCH: Thank you. I have, however, changed attorneys.

MR. RICHMOND: Good evening, Chairman Pettiford, Members of the Board. As you recall, my name is Dan Richmond. I'm an a Partner of The Law Firm Zarine and Steinmetz, 415, suit 415, 81 Main Street, in White Plains. And with John Loch, of AFR Engineers, who represents the Applicant.

MYL Investors in connection with this request for a variance from the Village of Harriman, B2 general commercial

zoning district for a third-story for the MYL Investors Project, located at 200 Route 17M.

As you recall, your Board's February 27th, 2025, meeting your Board granted the Applicant a height variance, for the height of the building as constructed. The only variance that the Applicant is now requesting is for this third-story.

We respectfully submit that based on the applicable law and precedent that your Board has set forth for this particular project. As reflected both in the Board's 2017, decision. And the Board's February 25, decision on the project, compelled the Board to grant the requested variance.

Your Board's prior two decisions on the project inextricably link the impacts of the height variance for a -- with the variance for a third-story. Therefore, because your Board has already granted the height variance, in feet, which includes the third-story within it. And because

the impacts are in the same, the same analysis must apply as the facts, findings and impacts, are for all intention purposes identical.

By way of legal background, the New York Court of Appeals, the State's highest Court, consistently, holds its zoning board of appeals and other administrative agencies has neither follow their own precedent. Nor, indicate a reason for reaching a different result. On the same facts and impacts, are acting arbitrarily and consistently.

For that, we cited numerous cases in our June 27th, letter to your Board. Including, Tall Trees Construction Corporation versus ZBA Hunting, 97 New York Second 86.

The test of whether the ZBA is bound by precedence, whether the application is essentially the same. Or substantially similar facts.

Here, the Board's 2017, decision for the project. This Board analyzed the impacts from a more significant nine foot

height variance and the variance for a third-story. And found that both of these variances would not have any negative impacts.

Essentially, the 2017, decision indicates that your Board would have granted a nine foot height variance. And the variance for the third-story, had there not also been a hundred space parking variance. Also requested at that time.

As the Board is aware, there is no need for any parking variances because the project now supplies all parking required by the Village code.

For a particular relevance, the instant variance application for a third-story. Your Board found in its 2017, decision that both a nine foot height variance and a variance for the third-story, posed the same impacts. Would not cause an undesirable change in the neighborhood.

With regard to the same, quote, "with the regard for the Applicant's

request for variance to allow a third floor, the ZBA finds that it will not cause an undesirable change to the neighborhood." Plus the topography of the project location. And the ZBA's findings in regard to the statute are essentially the same for the height variance request; as a third-story variance request.

Because both will result in the structure being significantly taller, only in the back, the topography of the property. This is the essential test under New York Law for whether the Board should grant the variance.

This finding is critical, because the facts relevant to the height of the third-story, have gotten more positive through the project. And the current height exceedance is significantly less than the height variance reviewed by your Board in 2017.

Moreover, by further precedent, your Board in its February 25, 2025, decision granted a 1.5, foot height variance in feet in the concurrent

building as constructed. Which included a third-story within it. Your Board's February 2025, decision validated further confirmed your Board's 2017, analysis. Regarding the fact that the height in the third-story variance posed the same impact. And that neither variance would cause an undesirable change in the neighborhood. Nor, have an adverse impact on the physical, environmental conditions, on the neighborhood or district.

Quote, "in that 2000, decision, prior ZBA recognized that the height and story variances essentially imposed the same impact. And found that these variances would not cause an undesirable change in the neighborhood. Because of the topography, the private location."

And could cause both variances a result of the structure being significantly taller. Only in the back, due to the topography of this property. And that a tree line blocked the view of the private line block from that angel.

Your Board further recognized in

their February 2025, decision. Quote, "the prior ZBA also found that via the third-story variance or the height variance, would have an adverse effect to the physical or environmental condition of the neighborhood."

Typically, because of the topography of that lot. Any distance between the main road, Route 17M and the proposed structure. Again, your Board granted, in its February decision a 1.5, height variance for the building as constructed.

Because of your Board's two prior decisions in 2017 and February of 2025, inextricably link, the height variance with the variance for the third-story.

Again, your Board's 2017, decision highlights the ZBA's finding regarding the facts, are essentially the same. Your Board, over again, in the February 25, decision your Board granted the height variance. That it will not cause an undesirable change in the characteristics in the neighborhood. Or have a

detrimental impact on hereby properties or harmful precedent.

Furthermore, the 2025, ZBA decision explicitly acknowledged the unity between the height variance and third-story variance. Thus, having the height variance for the project has granted height variance towards the Board -- for your Board, for the project, respectfully, is now compelled to grant the instant request for a third-story variance.

In addition to the binding precedents, we further submit that the third-story should be granted on its own merits. And I do want to walk through the five factors, as your Board did at the height variance in February 2025.

First, your Board in proposing addressing the issue if whether an undesirable change will be produced in the character of the neighborhood. Or detriment to the nearby properties by granting the variance.

And it will not cause an undesirable change in the character of the

neighborhood. Or have a detrimental impact on nearby properties. Or create a harmful precedence. Including, because the site is topographically at the center of a bowl, surrounded by large commercial ventures or vegetative screening on all sides.

In addressing the second factor. Whether the benefits sought by the Applicant can be achieved by some other method. Feasible for the Applicant to pursue other than the height variance. Your Board found that there's no feasible alternative for the Applicant to achieve the benefit sought.

Mainly, because the building is complete. Has been built, according to plans, reviewed and approved by the prior building inspector.

In addressing the third factor, whether requesting the variance is substantial. Your Board wrote that they recognized the totality of the relevant circumstances is the relevant issue. Um -- not any numerical calculation. And,

again, as I previously noted, cited your Board's previous decision in private, would involve a greater height variance in the room. That the prior ZBA recognized.

The height variance would not cause an undesirable change in the neighborhood. Because of the topography of the location. And thus, the variances original structure being significantly taller but only in the back. Found that a height variance but not substantial.

With respect to the fourth factor, your Board wrote again, you found, quote, "that the 1.5, feet of height variance will not have an adverse impact on the physical or environmental conditions of the neighborhood or district. Because of the unique topography of the site, plus the color scheme of the building naturalizes the nonconformity."

Finally, with respect to whether it's self created -- um -- although your Board found that it was self created, you acknowledged, that quote, "the prior building inspector had issued building

permits on the plans that the Applicant submitted. And again, recognized that any self created finding, did not include the granting of the variances."

Finally, I would note, as was shown, the previous correspondence including in our February's correspondence to your Board, the project was virtually perceptible, Route 17M, behind the car wash there. You can't see it in that picture.

We're happy to answer any questions your Board may have. I think, the Public Hearing is still open.

THE CHAIRMAN: Does anyone from the Public would like to speak on behalf of this property?

MR. DEJOY: 200 Route 17M?

THE CHAIRMAN: 200 Route 17M. This is a property -- behind Frankie's Car Wash.

MS. HUNTER: The car wash it's called Nexus. There's a sign on Route 17M, called, Nexus. It's a driveway along the side.

MS. LICOTA: What is the building used for?

MS. HUNTER: Please come up to the front table and say your name again, for the record.

MS. LICOTA: Maureen Licota, what is the building used for, currently?

MR. LOCH: Office storage.

MS. LICOTA: Okay. So, why does it need to go higher?

MR. RICHMOND: It's already built. It's higher because it's built pursuant to plans included by the building inspector. We got a height variance, we don't need to go higher.

MS. LICOTA: So, then why are we here?

MR. RICHMOND: Why are we here? This is a good question. This is what I've been asking for nearly the past year, we've been before the Board. It was built and a subsequent building inspector found that it was built actually, 1.5, foot because of the Village codes. So, the height calculations are not entirely

clear.

We're just here because there's what -- um -- our Client believed technically a mezzanine, according to the state building code. A subsequent building inspector said, it was actually a third-story. So, we're just here to legitimize the third-story that is entirely interior.

MR. LOCH: It doesn't make the building any taller.

MS. LICOTA: Well, that's what it sounds like, what you were doing. What you're saying. I mean, I have seen it.

MR. SANTIAGO: To elaborate, the current building code doesn't allow for a three-story building.

MS. LICOTA: Right. Yeah, I know that, yeah.

MR. SANTIAGO: So, currently, what they call a mezzanine, could be interpreted as a third floor.

MS. LICOTA: Right. And it could be used as that and that's probably why you don't want to allow that. Which is

totally understandable. And I get it one-hundred and fifty percent.

MR. SANTIAGO: That's not that we don't want to allow the variance.

MR. DEJOY: Anyone else from the Public? No.

Okay. I think, it would be appropriate then at this time for the Board to close the Public Hearing.

THE CHAIRMAN: I'd like to make a motion to close this Public Hearing.

MR. SANTIAGO: I second that motion.

MR. DEJOY: SEQRA, was previously addressed back in February.

MS. TORRES: Aye.

MR. DEJOY: Sorry, about that.

Previously, on this project so really, the Board is just left with a vote on the variance to allow for a third-story.

And the same as last time, if somebody wants to go ahead and make a0 motion, feel free to do so now.

THE CHAIRMAN: This is SEQRA?

MR. DEJOY: So, SEQRA, this is already done. This is to accept the third floor variances. Yes. Just to vote on the variances.

MR. SANTIAGO: I make a motion to place a vote or accept a vote on the third floor or mezzanine of the right choice builders.

THE CHAIRMAN: I second that.

MS. HUNTER: Mezzanine can't be there at all. It has to be third floor, in that respect.

MR. DEJOY: For the sake of clarity.

MR. SANTIAGO: For clarity, third floor.

THE CHAIRMAN: I second that.

MR. DEJOY: All right.

Mr. Chairman?

THE CHAIRMAN: Okay. Benefit of the Applicant for the variance -- so we're going to vote now, right?

MR. DEJOY: Yes.

THE CHAIRMAN: Let's have a vote. A -- to make such determination The Board

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shall consider undesirable change. Whether it will be produced to the character of the neighborhood or detriment to the entire property, by the granting of the area variance.

Is everyone on the Board been able to do a site visit?

MR. SANTIAGO: Yes.

THE CHAIRMAN: Yes? Okay. All right.

Undesirable change. I don't see a change of an undesirable change, I did have questions originally about -- the use. But that's also not a concern for the ZBA, at this point. So, I do not see an undesirable change.

The benefit without the variance. Whether the benefit sought by the Applicant can be achieved by some method feasible to pursue other than the area variance. I don't believe you'll be able to do that for a third floor. To have use of the third floor without the variance.

Substantially, I believe it is substantially concerning. You will be

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gaining a lot more space to use on the area. And -- a -- the amount of office buildings that are going to be available to that area, including parking.

More cars on the road, maybe more trucks, more buses, coming in and out of that building and area on the 17. There's also apartment buildings, right in that area. It's already pretty busy.

Adverse impact or effects. With the proposed variance having an adverse impact on the physical or environmental conditions of the neighborhood. And I stated, I believe there will be a lot more traffic in the area by allowing the third floor. And the occupancy of it.

Self creation, whether the alleged difficulty was self created, yes. That's, yes. I believe that's across the board, yes, yes, yes.

As far as my vote for the variance to the third floor, I'm voting, yes. I'm voting, yes, to have the third floor.

MR. DEJOY: Okay. Thank you. Aaron?

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MR. SANTIAGO: I want to address the Public very quickly. Again, you have to look at these five factors that have been given. And then, you're suppose to do like, a scales and balance type of thing, right? So, there's five of them, so if three out of those five, that would be 60 percent. That's more than 50 percent. We should, technically vote this way.

The Attorney brought up certain things that we had voted on in the past previously, that we're not here for. The number, 1.52, although it's been used very pretty loosely here. And we voted on this, I'm newer, I don't know where it was derived from and I questioned -- you know -- just the authenticity of it. But putting that aside, we're here to vote on the third floor -- um -- it doesn't represent an undesirable change.

I think it does, because I questioned the use of it from the very beginning. And going forward, how it might create a precedent for anyone else

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in the community or that could come along and just kind of build whatever they want. And then come and turn around and seek forgiveness later.

Benefits without a variance. So, no, they couldn't utilize it as a third floor without a variance. So, with that I say, yes.

Substantiality. It's the third floor is 10,000 square feet approximately, of space. Um -- it's a lot -- you know -- and the building was originally suppose to be 44,00, I think. And it ended up being 54,00, square feet. So, that's a significant amount.

And does it adversely impact our community. And I think Mike, mentioned traffic, that's one of the biggest things. Especially, on 17, where it's already pretty tough. Forget about it, there's potholes, so.

Is it itself created, absolutely. I think, I mentioned it once. No one delivers -- you know -- free steel or materials, right. So, for that I'm

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actually going to say, no. I'll deny the third floor.

MR. DEJOY: Thank you, Aaron. Tracey?

MS. TORRES: Yeah, this was a -- an interesting variance request. Especially, like, listening to the way it was presented here.

Um -- in regards to why are we even here? Because I'm new to the Zoning Board as well and the reason why we're here is because -- that building that exists now is not what -- I understand was originally supposed to be.

One question, before I share the vote, if we're not allowed to use the word mezzanine now and it has to be third floor. I'm curious, in the elevator are they going to change that button from mezzanine, to the third floor?

Will it be a three floor building, now? Because when I went there it said, Floor 1, Floor 2 and then, "M." And, when we first came here it was stressed that it's not a third floor, it's actually a

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mezzanine. So, what is it going to be now?

MR. RICHMOND: Our position is that it is a mezzanine so that we can stay in the building code. But we agreed to work with the Village -- um -- to -- um -- address that. And -- you know -- the elevator, I'm sure that could be accommodated if that's a significant concern. That could be a condition of any grant.

I do want to point out a couple of things. 1.52, foot was calculated by the Village's Engineering Firm, Lank and Tully. That's their calculation of what the height variance is.

I would also point out that we have a traffic study that we submitted. And I will give the Board another copy. Which showed that the project -- (Handing) is based on this from College Engineering, that the low traffic level of generation, there will be no degradation to traffic that operates along Route 17M. In the a.m., the peek hours or p.m., in the peek

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hours.

MS. HUNTER: I have a copy already.

MR. RICHMOND: You have one. (Handing)

MR. DEJOY: Tracey, would you like to continue?

MS. TORRES: So, my thing is, so, we're here. He said, it's there, it exists. And now that I'm learning about all of this, there's no way that one can just take off the top of a building, if we say, no, you cannot have this variance.

And then the other thing is, I'm like, it's just like, a strange not a big deal, just give a variance. But the issue is -- like -- is it going to set a precedence. And people can just build buildings and say, one, two, floor and now this is the mezzanine and this is the attic and this is a thing. It's already built. You can't take it off.

It's a very uncomfortable mistake or whatever that is. Um -- so -- we've been coming here a long time, it's not an easy vote.

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MR. RICHMOND: I'll just point out in the February decision, the Board found that because of the unique factors of the site, this would not create a harmful precedence for the project.

MR. SANTIAGO: But you also meant, we were voting on 1.25, feet, solely. Now you came back to the ZBA and you wanted to do a vote on the third floor, right?

MR. RICHMOND: We didn't come back. We were before the ZBA originally on the third-story. And then, we did agree to break it up. Because we went back to the Planning Board, got approval, made sure we got all the parking that we needed. And they approved.

And I think, that it was at -- um -- out of the Village's outside counsel Ben Daly, suggested that we go to the Planning Board. To which, did grant approval for the project. It was all built. Again, it was all built as you recall, pursuant to plans that were built by the building inspector. Who had a building permit to approve the project.

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So, I think any mistake is on the Village's part as well.

But again, I believe that your Board directed me to the point, that Ms. Torres was suggesting. About whether this it creating a precedent for other projects. And I don't think it would. And I think your Board specifically found that you're bound by that prior finding, that it will not create --

MS. TORRES: -- I'm gonna vote. I will vote very disappointingly, yes. Because it's there. And the tension in this -- on this topic every time we've come, has grown and grown.

And unlike -- we haven't had a show -- in regards to that. We haven't had a big people, come up to say otherwise, if there was some big issue against it. It's just been -- you know -- so, I fight, fine, accepted as a third floor.

MR. DEJOY: All right. Thank you. And Justin?

MR. LAMARCH: So, a -- this

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project's been around the Village for approximately, 10 years. Um -- on and off as -- as -- you know -- you guys look at the minutes, you went to the Zoning Board and Planning Board in 2017, and stuff like that.

Um -- you know -- we wouldn't be here if there was a clerk of works on the project. If the clerk of the works would actually know -- the laws and the rules of the Village. Every commercial property has a clerk of works, construction wise.

As far as the variance, I saw the same thing that Tracey saw when I walked the building. It said, in the elevator it said, First Floor, Second Floor, Mezzanine. On the third floor it said, Third Floor on the signage. So, what are we calling it?

MR. DEJOY: So, just to be clear on that point, so it is a third floor.

MR. LAMARCH: I understand but I want to let the Public know, this is what I saw.

MR. DEJOY: Sure.

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MR. LAMARCH: It's -- you know -- that's what I saw when I went to go do the walkthrough. Yes, 10,000 square feet is a lot. You know -- as far as the variance -- you know -- you know -- undesirable -- you know -- undesirable change -- you know -- it's already built, the third floor. It's already built, structured.

Unfortunately, it was built -- you know -- you can't really cut a roof off -- you know -- without costing the small business, the owner, more money. Um -- and I just I'm -- I'm just baffled --

MR. RICHMOND: -- I would just point out that John, just pointed out to me. That's not a 10,000, square foot addition, it's 1,200 feet.

MR. LOCH: In terms of total office space that was 1,200 square feet. What you have is crawl space. And because you've got it stacked now, you got two hallways. We have some extra hall area in the crawl space. And access.

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And we made sure that all the office -- the majority of the offices, have exterior windows. So, you've got an interior hall system apace. But the total in terms of actual increase in office space is, 1,200.

MR. SANTIAGO: How many offices are there in total?

MR. LOCH: I don't remember the number off the top of my head.

MR. SANTIAGO: I'm just curious.

MR. DEJOY: Justin, you want to continue?

MR. LAMARCH: You want me to continue, all right. A -- is there an adverse effect in the neighborhood. Of course, you never know if somebody's going to build a third-story. And potentially could have a third story.

Self creation -- yes, it wasn't self created. That building was built. They could have been stopped if you had a clerk of works. So, I'm going to have to deny the variance. So.

MR. DEJOY: All right. So, the

vote is two to two. The Applicant would have needed three votes for the variance to be approved. So, therefore, it is denied.

MR. RICHMOND: When can we get a resolution?

MR. DEJOY: So, the next step would be for the Board to prepare a written resolution. Which would adopt at the next meeting.

MR. RICHMOND: When will we get minutes reflected of those?

MS. HUNTER: The minutes will take at least two to three weeks.

Reporter can get them to us, we can get the minutes out to you and to everyone.

MR. RICHMOND: Thank you.

MS. HUNTER: Okay.

THE CHAIRMAN: Motion to have your office -- to write up a resolution.

MR. SANTIAGO: I second that motion.

THE CHAIRMAN: To write the resolution.

MS. HUNTER: Authorizing the resolution?

THE CHAIRMAN: Yes.

MR. SANTIAGO: I second that.

MS. HUNTER: To being signed at the next meeting?

MR. DEJOY: All in favor?

THE CHAIRMAN: Aye.

MR. SANTIAGO: Aye.

MS. TORRES: Aye.

MR. LAMARCH: Aye.

MR. DEJOY: I don't believe there are any motions to address.

THE CHAIRMAN: Let me just -- announce the next meeting.

I just want to announce the next Zoning Board of Appeals Meeting is scheduled for September 3rd, at 7:30 p.m.

Again, with the deadline for the completed submission for review is due by noon on August 19th.

At this point I would like to make a motion to conclude today's meeting.

MR. SANTIAGO: I second it.

THE CHAIRMAN: All in favor?

MS. TORRES: Aye.

MR. LAMARCH: Aye.

THE CHAIRMAN: Meeting is adjourned.

(Time noted: 9:08 p.m.)

CERTIFICATION

I, Stephanie A. Colon-Davis, Certified Court Reporter, before whom this proceeding was taken, do hereby state on the Record:

This to be a true and accurate transcript of the aforesaid proceeding and that due to the interaction in the spontaneous discourse of the proceedings, dashes (--) have been used to indicate pauses, changes in thought, and/or talkovers; that same is the proper method for a Court Reporter's transcription of proceedings, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the parenthetical"(ph)."

Stephanie A. Colon-Davis

Dated: August 6, 2025