

**Town of Southeast
Zoning Board of Appeals
Minutes of July 18, 2016**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Kevin Sheil	Absent
Roderick Cassidy	Present
Debra Keiser	Present
Greg Wunner	Present
Carla Lucchino	Present
Willis Stephens, Jr., Town Attorney	Present – 8:50 pm
Victoria Desidero, Secretary	Present
Cathy Chiudina, Assistant Secretary	Present

Worksession:

Regular session:

Dennis and Kimberly Santucci, 5 Shady Lane – This was a Continued Public Hearing to review a request from the Building Inspector for an interpretation of the Town Code in order to determine how and where to measure the height of a stone garbage pail enclosure; and a Continued Public Hearing to review a request for an Administrative Appeal of the Building Inspector determination, as well as a request for Interpretation of application of Town Code.

Chairman Froessel: We had closed the Public Hearing on this application I believe two months ago in order to do a written Resolution and take a vote. We have two written Resolutions on the two different Interpretations that were required. I am going to read them into the record and as I read each one into the record we will then do a roll call vote on each one. I will do the shorter one first as this is the first one that came in. The Resolution is dated August 15, 2016. I will introduce this Resolution. It's a Resolution regarding the Building Inspector's request for an Interpretation re: Dennis and Kimberly Santucci, 5 Shady Lane garbage pail enclosure. **WHEREAS**, by letter dated February 10, 2016, Building Inspector Michael J. Levine requested an interpretation from the Zoning Board of Appeals ("ZBA") as to how the height of the garbage pail enclosure located at the residence of Dennis and Kimberly Santucci (the "Applicants"), 5 Shady Lane in the Town of Southeast, New York, should be measured; and **WHEREAS**, public hearings were held before the ZBA on the aforementioned request for interpretation on March 14, 2016, April 18, 2016, May 16, 2016 and June 13, 2016; and **WHEREAS**, upon review of all submissions and testimony before the Zoning Board of Appeals in connection with the request for interpretation, it is the ZBA's intention to memorialize its interpretation in this matter. **NOW, THEREFORE, BE IT RESOLVED**, that the height of the garbage pail enclosure at the Santucci property at 5 Shady Lane shall be measured as the vertical distance between: (1) the top edge or highest point of said garbage pail enclosure, and (2) the base of the garbage pail enclosure at either (a) the lowest grade as it existed prior to the construction of said garbage pail enclosure and prior to the addition of any fill not lawfully placed pursuant to Chapter 69 of the Town Code, or (b) the lowest grade of any fill placed lawfully pursuant to Chapter 69 of the Town Code or by Special Permit duly issued by the Planning Board. Do I have a second?

Boardmember Vink: Second.

The Resolution was introduced by Chairman Froessel, second by Boardmember Vink and pass with a roll call vote of 6 to 0 with 1 absent.

Roll call vote:

Timothy Froessel, Chairman	Yes
Paul Vink, Vice Chairman	Yes
Kevin Sheil	Absent
Roderick Cassidy	Yes
Debra Keiser	Yes
Greg Wunner	Yes
Carla Lucchino	Yes

Attorney Michael Liguori: Just a question: so what do we do if there is no pre-existing topography to say what the prior grade was?

Chairman Froessel: Excellent question. That's going to be someone's burden to figure that out. I don't know whose. I've made suggestions to the Town on what should be done. Whether that will be taken or not I don't know.

Mr. Liguori: Okay and then just recently we appeared before the Planning Board on the referral for the Chapter 69 for a Determination and in that case we had a split vote, 3-3. There was a motion made by the Chairman to require and that failed. So...

Chairman Froessel: What was the motion?

Mr. Liguori: The motion was to require a Special Permit and that was voted on, there were six members present and one recused so we had a total board of six. Three board members voted to not require the Special Permit, three board members voted to require the Special Permit so we have a situation where according to counsel for the Town we're essentially in a no-action position whereas with the Zoning Board, if that happened in front of the Zoning Board you would have a denial by virtue of the vote. Apparently the Planning Board does not have a section in Town Law that requires the same thing so Building Inspector Levine asked the board for a re-vote and they declined. I sort of feel like we're on a ferris wheel.

Chairman Froessel: I can't speak for the Planning Board and what they do or what their requirements are. How did it come up 3-3, was someone absent?

Mr. Liguori: No, there was a recusal. So there's a significant question that's going to be out there and I kind of feel like tonight's Resolution really doesn't add to it.

Chairman Froessel: Unfortunately I don't think it does but I don't know what to tell you to do.

Mr. Liguori: I mean, let's say hypothetically all right? We know obviously there's a history over whether fill was placed illegally or legally but if we were in a situation where let's say no Special Permit was required, just...not Dennis and Kimberly Santucci, just somebody else and the question was "how do you measure this?" The grade behind the structure was the grade; the grade in front of the structure is the grade. What would the Board require? What would the Zoning Board do?

Chairman Froessel: I'm not answering any hypothetical questions Mike (Liguori). It's not happening.

Mr. Liguori: But it's a real question.

Mr. Santucci: Just say the... (inaudible)

Chairman Froessel: We just answered it. Someone has to take a position on whether fill was placed there or not. I'm not the one to do it. Someone has to do it and it has to come clean and come out in the open and daylight has to fall on it and someone has to answer and take a position. I'm not the one to do it.

Mr. Santucci: Mr. Chairman with all due respect...

Chairman Froessel: You have our Interpretation.

Mr. Santucci: We're asking this Board to finalize it and give us a real position.

Mr. Liguori: Well actually the Building Inspector was, not us.

Mr. Santucci: When you say the lowest point of grade, well this is the garbage enclosure. This is not. This is just a retaining wall. That's been our position from day one.

Chairman Froessel: That's your position. It's not my position. I wasn't asked to opine on whether that is all one thing or not one thing.

Mr. Santucci: We are asking...

Mr. Liguori: If I may...respectfully I think that's precisely what the Zoning Board was asked to determine in connection with the referral from the Building Inspector. This was a referral for advice from the Zoning Board as to how to measure this thing. How do you measure it? That's what we're looking for and the reason why I put out the scenario of 'let's take away whether you're in an illegal fill situation.' If that wasn't there then he would presumably have an answer from the Zoning Board as to how to measure it.

Boardmember Vink: But I think he did. I think this Resolution said 'the lowest point of any fill placed lawfully pursuant to Chapter 69 of the Code' and that's what the Resolution says.

Mr. Liguori: But yet you have a referral from the Building Inspector that says 'how do you measure the garbage enclosure...'

Chairman Froessel: And we've told him how to measure it.

Mr. Santucci: Can I ask one question? Is this the garbage enclosure or does the garbage enclosure start here and this is just a retaining wall? That's part of our question to this Board: is this a retaining wall and this is only the garbage enclosure? If in fact that this is only the garbage enclosure well then there's no issue, it's not more than 4 ft. It's 30 something inches from here up so it's maybe 3 ft.

Chairman Froessel: Well, we've made our Resolution and we'll move on from there.

Chairman Froessel: Second Resolution, also dated August 15, 2016. I am introducing the Resolution. The Resolution is for a request for Interpretations by Dennis and Kimberly Santucci, 5 Shady Lane regarding the measurement of fence height and appeal of determination of Building Inspector dated February 10, 2016 regarding measurement of fence height.

WHEREAS, by letter dated February 10, 2016, the Town Building Inspector Michael Levine issued a determination in a paragraph numbered "4" regarding the measurement of the height of certain fences on the property of Dennis and Kimberly Santucci at 5 Shady Lane, Town of Southeast (the "Appellants/Applicants"); and **WHEREAS**, by letter dated April 4, 2016, Michael J. Liguori, Esq., counsel for the Appellants/Applicants, requested, among other things, with respect to "the wall located between the Santucci property and the Heinecke property to the north," an interpretation: "(i) whether that wall is, in fact, retaining, (ii) how to measure a fence atop a wall that is partly retaining and partly not retaining; and (iii) which side of the wall do you measure from when the grades vary on each side"; and **WHEREAS**, the Appellants/Applicants by letter dated April 29, 2016, from their counsel Michael J. Liguori, Esq. amended their request for interpretation to also appeal the determination of Town Building Inspector Michael Levine in the paragraph numbered "4" of his letter dated February 10, 2016, to the Appellants/Applicants regarding the measurement of the height of certain fences on the Appellants/Applicants' property; and **WHEREAS**, public hearings were held before the ZBA on the aforementioned request for interpretations and appeal on March 14, 2016, April 18, 2016, May 16, 2016 and June 13, 2016; and **WHEREAS**, upon review of all submissions and testimony before the Zoning Board of Appeals in connection with the applications for

interpretation, and upon the ZBA taking notice of Section 1806.1 of the New York State Building Code, which imposes specific design criteria for the construction of retaining walls, it is the ZBA's intention to memorialize its interpretations in this matter. **NOW, THEREFORE, BE IT RESOLVED**, that the determination of the Building Inspector dated February 10, 2016, in the paragraph numbered "4" is reversed in its entirety and the measurement of all fences is to be conducted in accordance with the resolutions adopted herein; and be it further **RESOLVED**, that the stone walls constructed by the Applicants in or about 2014 between the Applicants' property and the Heinecke property to the north and the Skalaski property to the south are not retaining walls within the meaning of the Town Code; and be it further **RESOLVED**, that the height of the fence on top of the stone walls constructed by the Applicants in or about 2014 between the Applicants' property and the Heinecke property to the north and the Skalaski property to the south should be measured as the vertical distance between: (1) the top edge of the fence, and (2) the base of the stone wall at either (a) the lowest grade on either side of the stone wall as it existed before the construction of the stone wall and prior to the addition of any fill not lawfully placed pursuant to Chapter 69 of the Town Code, or (b) the lowest grade of any fill placed lawfully pursuant to Chapter 69 of the Town Code or by Special Permit duly issued by the Planning Board, along; and be it further **RESOLVED**, that any other requests for interpretation or questions raised in these proceedings are deemed by the ZBA to be hypothetical, or moot based upon the resolutions adopted herein. Do I have a second?

Boardmember Vink: Second.

The Resolution was introduced by Chairman Froessel, second by Boardmember Vink and pass with a roll call vote of 6 to 0 with 1 absent.

Roll call vote:

Timothy Froessel, Chairman	Yes
Paul Vink, Vice Chairman	Yes
Kevin Sheil	Absent
Roderick Cassidy	Yes
Debra Keiser	Yes
Greg Wunner	Yes
Carla Lucchino	Yes

John Hernandez and Djanila Gahar, 73 Coledge Drive – Continued Public Hearing to review an application for a proposed front entrance for a single family home, which requires a 15 ft. front yard setback variance where 20 ft. is proposed and 35 ft. is required.

Djanila Gahar was sworn in and the mailings were found to be in order.

Secretary Victoria Desidero: Mr. Chairman, the question about the mailings came up at the last meeting and we just want to let you know that the mailings are in order.

Chairman Froessel: Thank you.

Chairman Froessel: Why don't you describe for us the nature of your application?

Ms. Gahar: I just want to have a portico built in front of my front door in order to prevent that spot from having more damage from rain and snow. Basically whenever you open the door it just comes in so there's no protection over the front door.

Chairman Froessel: So right now you have a 20 ft. front yard setback? Is that correct?

Ms. Gahar: Yes...

Chairman Froessel: I'm sorry; the proposed is 20 ft. with the front enclosure correct? How far is your house from the front property line right now?

Ms. Gahar: I have an image I can...you want to know how far it is? I don't know.

Mr. Hernandez: 35 ft.

Ms. Gahar: 35 ft. That's John Hernandez.

Chairman Froessel: 35 ft. so your front entrance would protrude 15 ft. out from the house, is that correct?

Ms. Gahar: That's what they said yes.

Boardmember Cassidy: Do you have a photograph of your house by chance?

Ms. Gahar: Yes.

Boardmember Cassidy: Is this your house?

Ms. Gahar: No that's an image of what we are looking to...

Chairman Froessel: If I'm looking at this diagram correctly it's going to be 4 ft. wide?

Ms. Gahar: Yes that's the dimension.

Boardmember Vink: Do you have a copy of this application as it didn't make it into my folder.

Ms. Chiudina: This has been held over for a couple of months but yes I do.

Chairman Froessel: If I'm reading the application correctly, the application says it's going to extend out from the house 7 ft.

Ms. Gahar: That's what he indicated.

Chairman Froessel: Okay then you're probably not 35 ft. from the setback now, which doesn't surprise me. Cooledge is one of those neighborhoods where the houses popped up before there was Zoning in the Town and a lot of them built were pre-existing, non-conforming. They didn't have setbacks to conform to back then. So according to this the height is 13 ft., 7 ft. out from the house and 4 ft. wide. The reason for this is because of the water...

Ms. Gahar: It damages the front entrance. The door is all peeling and the door is rotting and I wanted to place another door but it will just rot again.

Chairman Froessel: Does anyone on the Board feel the need to go and look at this? I'm pretty familiar with that neighborhood.

Boardmember Lucchino: I took a look.

Boardmember Vink: Did the pictures that you handed out accurately represent what the house looks like right now?

Ms. Gahar: Yes.

Boardmember Vink: Did you just buy this house recently?

Ms. Gahar: Yes.

Chairman Froessel: I don't think I have any additional questions for the applicant. Does anyone else? No? Okay. Is there anyone in the audience that has any questions or comments about this application? So what we typically do here is we close the Public Hearing and we deliberate and we vote. Before I do that, do you have any final comments or statements you want to make to us.

Ms. Gahar: No I don't.

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

Ms. Gahar: Yes.

Chairman Froessel: Thank you. We will close the Public Hearing. I'm pretty familiar with that neighborhood and that whole Tonetta Lake area and this is, I think, pretty much in keeping with the neighborhood. There are a number of houses with this type of portico in the front of their property for very similar reasons.

Boardmember Cassidy: And I noted in the photographs that the neighbor to the left of her actually has a portico.

Chairman Froessel: There you go. The character of the neighborhood has been established. Anyone else have any comments or any deliberation? Okay. I will accept any motion that anyone would care to make regarding this application.

The motion to grant the requested variance of 15 ft. from the front yard setback for the purpose of constructing a portico as depicted in the drawings submitted to the Board was introduced by Boardmember Vink, seconded by Boardmember Cassidy. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
Obviously as noted by Boardmember Cassidy, right next door there is a portico that's very similar so I don't think there will be any change in the character of the neighborhood and the portico is actually in keeping with that character.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
It's not as pointed out by the Chairman. Nothing can be really done in this area without a variance of some sort to do any kind of building expansion in this way.
3. Whether the requested variance is substantial.
Given the layout of the property, it's a small portico being added to the front. It's not the entire length of the house. It's really the door frame so I think that it is not 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.
There is no evidence of that and I don't believe there will be.
5. Whether or not the alleged difficulty was self created.
No it is the nature of the neighborhood.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

Brewster Subaru, 1021 Route 22 – This is a Continued Public Hearing to review an application for a pre-existing, non-conforming sign in the NB-2 Zone, which requires a 23.5 ft. variance where 1.5 ft. is proposed and 25 ft. is required.

Peder Scott of PW Scott Architecture and Engineering approached the bench to present the application on behalf of Brewster Subaru.

Ms. Chiudina: Mr. Chairman, we did get the County approval.

Engineer/Architect Peder Scott: My name is Peder Scott. I'm an architect and engineer representing Brewster Subaru. I appeared before the Board at the last meeting but I'll go through some basics of the application for the members who weren't here. Also I have some new information that I want to go over as well. In your packets we included a bunch of pictures of what the sign looked like, a superimposed picture of the current conditions with the proposed sign there. We're here for a variance in regards to the placement of a Subaru sign. It's a franchise requirement. Every so often in all car dealerships we have to go before various boards and show you what the new corporate identity packet looks like and see if we can adapt it to all the Town Ordinances. In this regard, the sign is depicted on the plan. We need to talk about some brief history if I could. This was Marine Midland Bank site in 1971. I have the site plan for that and basically it was NB Zone with pretty much a 35 ft. front yard setback as depicted on the plan right here. In 1977 we did an application for Jeep Eagle and Subaru and that consisted of amending that bank building into a car dealership that's there today and just recently Subaru has completed an extensive expansion and remodeling program basically putting in new interior packages as required by the franchise and exterior enhancements which you've probably seen as you've driven by. They've put all new façade on the building on the two frontages of the property so the whole program is to bring it up to a new franchise look. When we started looking into this application for the sign it turns out we never could find a variance for the signage, which was done with the NB Zone in 1997.

Chairman Froessel: And that surprises me because I had a recollection that this was before us a long time ago when I was first on the Board.

Mr. Scott: Correct. So what also happened is the Zoning got changed 8/20/15 to Motor Vehicle Dealership Zone. It's a Special Permit use and they applied some new Ordinances to this property: mainly the front yard setbacks became 50 ft. and there are some yard issues that were amended also in the new zone. All of these items were not conforming since in 1971, they had the parking within seven feet of the front yard setback at this location which fronts on Route 6. The 22 side nothing is happening but on Route 6 we have a non-conformance issue in regards to that particular area. So what we have before as the last part of the package is to take a non-conforming use and to somehow make it more conforming to the Zoning of the Town as well as comply with the new visibility package for Subaru. What we came up with is a plan where we elected to reduce the size of the existing sign. The existing sign also in your package happens to 104.5 sq. ft. and it stands 24 ft. 11 in. above the grade. As you can see in the picture this is all to scale, white veneer with the Subaru sign. The new identity package for Subaru calls for a 15 ft. tall sign and basically we are making the square footage of this 50 sq. ft. The issue is one change though, for clarification purposes the franchise requires that this interior Subaru sign is lit with lights inside, behind plexiglass components which only identify the words Subaru and their logo. I happen to have, from Philadelphia Sign Company, just a clarification of what all of this means. They gave me a picture of this. So what they're looking to do is: they want to reduce the scope of their signage at this point in time with a new franchise look but they want to place these white panels below, actually they're silver white, and above that the blue would stand out. The picture in your package shows you...there was someone holding a 15 ft. high surveying rod and we utilized that to determine the height of our sign. The sign in reality is set down a hillside approximately four and half feet so the net height of the sign relative from this view angle is about 11 ft. tall. The property slopes downhill toward the existing parking lot and the Subaru facility. So this particular sign is meant to illuminate and to indicate where the Subaru is while you're driving down Route 6 going in a westbound direction. At the bottom of the hill we sweep around a curve and there's building signage at that location so this is where their sign is for the facility and this is what we're

applying for. What is the nature of the variance? Well, 25 ft. is the setback requirement and again we want to bring that from a distance of 15 ft. existing, which is the edge of this huge, big sign right here and we want to bring that to 1.5 ft. Part of the rationale is this: when they created the right-of-way for the Town the property itself is separated by a large expanse of grass, which is owned by New York State DOT and the width of the grass from the edge of the pavement to the edge of the property line is 30.8 ft. so if you add 1.5 ft. distance from our sign to the edge of the property, to get the total distance from the edge of the pavement we are at 32.5 ft. roughly of a setback where our proposed sign is located. The rationale for that is that we want to have it out a little bit farther on the property so the visibility is a little bit better because we're so much smaller. We're one third the size we had before. So we want to build a small sign, which is conforming in terms of size but we are going to pull it close to the property line and utilize this large grass strip as part of our setback.

Boardmember Cassidy: Question: so it's not going to be on a post, it's going to have two white panels?

Mr. Scott: Yes.

Boardmember Cassidy: If you count the size of the white panels as part of the sign, how big is the sign? If I'm counting the white panels as part of the sign.

Mr. Scott: I would say it would be close to about 100 sq. ft.

Boardmember Cassidy: How big is the current one?

Mr. Scott: 104 sq. ft.

Boardmember Keiser: And this one will have lights on it?

Mr. Scott: The only thing that lights up is the word Subaru and the logo as you see in the picture.

Boardmember Cassidy: The white panel will not light up?

Mr. Scott: No it's solid. It's aluminum casting. Per the package that we have from Philadelphia Sign. A full description is this is an aluminum panel called aluminum cladding, painted silver. There's a special color for that. Then we have this panel right here, which again is aluminum painted blue and these items are referred to as a white Vivak. Vivak is a semi-translucent panel system. As you see in the picture before you at nighttime you would just see the words Subaru and logo lit up. We did talk to Subaru about the white part of it and their rationale is that because it's so much smaller they were hoping that could be part or included in our sign application approval because it takes away the background of the sign because now we're so low to the ground as you can see in the picture. We're concerned about the background clutter behind the sign itself and that it would become invisible. A blue sign floating in front of the old abandoned Chevy facility and they want to make it so it's visible when you drive down the street in the daytime. At nighttime it's a moot point because all you see is that glowing Subaru and the logo itself.

Boardmember Lucchino: Is the white reflective?

Mr. Scott: No it's painted white.

Boardmember Lucchino: But when headlights shine on it, it will stand out more?

Mr. Scott: It's not a reflective color. It's just a spray paint. There is always a reflective component in some paint. They didn't tell me if it was matte finish or not but we could, if required, make it a matte finish.

Boardmember Keiser: Will this obscure the visibility of cars coming from the other direction?

Mr. Scott: Well the interesting thing about cars in the opposing lane because we were looking at...what happens in this one particular area is all the cars swing around to the right hand side. You're in segmented lanes so there's no one really coming at you. If you are coming in the eastbound direction there's a stop sign off the paper right here. You have to come to a stop

and if you recall there's a huge sweeping roadway going to the south and only one lane goes off to the right or north and that's one single lane that goes around the edge of the property of the Subaru facility.

Boardmember Cassidy: What about people in front of the Chevy building turning left?

Mr. Scott: Their stop is way out here. They're way beyond. Their stop sign is up here because the road sweeps...there's a huge sweep like this. That stop sign is way out here. It's not even near...the sign is literally invisible. Even if you look at the picture itself I can just make out the stop sign. The stop sign for the opposing lane is way up there on the left hand side. So there are no traffic conditions that anyone would have an issue with. We're so far off the road. If I may add one more thing that I pointed out last time: I couldn't have my people stand in the middle of the road to take a picture so this picture really is of the shoulder looking at the site. If you pull over to the south and actually stood in the middle of the lane like you were driving your car, this would even be more off the right hand side than the view I provided for you. I couldn't get any volunteers in my office to stand in the middle of the road. Again, we're way off to one side. We're over 30 ft. of grass to even get to the property line. It's an issue because in most cases you would have a buffer of like 13 ft. normally in a roadway. If you have a 50 ft. right-of-way and a 24 ft. wide road, your shoulder would be about 15 ft. maximum or 14 ft. in that area for a roadway typical in Town. It's just because we're in deep DOT right-of-way that we have an excess of 30 ft. so it's sort of mitigates some of this request for a variance. One more item if I could: if we did push the sign over to the right it would just sink lower in the ground because again as I told you, Subaru is in a big hole and if we push the building to the right we'd have to make the building taller for visibility purposes as you move it to the north. So we put the sign right here instead of pushing it to the north where we'd just be dropping into a hole that's down in that property. The hillside is about 15 ft.

Boardmember Lucchino: So all Subaru dealerships are going with this type of signage? And will all be the same kind of sign?

Mr. Scott: Yes, correct, exactly. This is a franchise type of sign.

Boardmember Lucchino: So in all cases the big sign that's on the pole is going to be...assuming the Board agrees, that would be eliminated and the smaller sign on the white podium...

Mr. Scott: Yes that's correct.

Boardmember Lucchino: So it's mandated by Subaru?

Mr. Scott: Well here's how it works. If you have a franchise and they give you a checklist and if you comply to all the requirements you get every car you want. Then they go through the checklist and if you don't meet something in your checklist in terms of sales then you get a black mark against you and you get a percentage of cars that you request. You're pushed down on the tier for requested cars. The more you conform you get 100%. I don't know how the equation works exactly but the prototypical elements are all in this big checklist. Every car dealership goes through the same thing when they modify. Chevy just did. Subaru is doing it. Honda is doing it. I mean it's a big...we work with all of them and this goes through in waves. We'll do 10 or 15 applications of a similar nature. They're doing it in Canada right now.

Boardmember Keiser: I have a question on this picture: this looks like the old type sign but this one has lights in it?

Mr. Scott: That's correct, yes.

Boardmember Keiser: So it's not possible to get this type of sign?

Mr. Scott: No the request is for the white component below.

Boardmember Keiser: Whose request is that exactly?

Mr. Scott: That was related to us by the franchise itself and the signage is being created by a company called Philadelphia Sign. They do all the signs so they provide me the sign packages for every single application. In fact the signage in 1997 was by the same company.

Boardmember Keiser: This is not an option.

Mr. Scott: Not an option, no. We could do the white in a matte finish. We could do that. I can't take out the panels.

Boardmember Cassidy: Is the current sign lit?

Mr. Scott: It was at one time I believe but not now. One more thing we are doing: in the package they are also throwing into the pot that there are a whole bunch of silver lamp posts on the property and we're going to eliminate those. We're reducing the amount of lighting on the site and they have these large brown poles and they are going to eliminate all these white lights, which don't have the night sky incentive (inaudible) on them and so they're basically eliminated. As part of the package we're taking those signs out. It's in the application. We're eliminating them. There are like four of them.

Boardmember Lucchino: Wouldn't the lights give added security at nighttime?

Mr. Scott: To meet the night sky criteria they can't have diffuse light everywhere. They put in shoeboxes pointing down and all the old ones that are there are being removed. They were basically translucent light. There's actually a picture as another franchise had them. They're coming off of this.

Boardmember Lucchino: So the shoeboxes do what?

Mr. Scott: The shoeboxes focus the light downward...

Boardmember Lucchino: So there will still be light, just redirected?

Mr. Scott: It's a shielding and they shield the lights so they only point in one direction so you don't get the...night sky initiative is there are no glowing lights in the sky. Can I answer any other questions?

Boardmember Wunner: I have a question: should we be including the white portion of the sign as the area of the sign? I am asking the other members.

Chairman Froessel: The letter from the Building Inspector seems to indicate that...

Boardmember Wunner: Okay so 135 sq. ft. Does that still comply with the Code?

Mr. Scott: Well 50 ft. is required. I don't have exact numbers. What did the Building Inspector...?

Boardmember Wunner: 135 if you include the white.

Mr. Scott: Okay so it's 135 then. That would be part of the application.

Boardmember Cassidy: So then it's bigger than the current sign?

Mr. Scott: Yes.

Chairman Froessel: The application that's before us, the appeal is taken from the distance from the property not for the size.

Boardmember Lucchino: So the sign itself is in compliance?

Chairman Froessel: It would appear that is what the Building Inspector has determined.

Boardmember Lucchino: Okay.

Chairman Froessel: So you are saying you amended this to say that the sign will be illuminated from dusk until dawn?

Mr. Scott: Yes it has a sensor.

Chairman Froessel: Just to be clear, the existing large Subaru sign that's on the 2 pylons, that's going to come down?

Mr. Scott: Yes the sign is going down and all the poles are going down as well.

Chairman Froessel: Is there anyone in the audience that has any questions or comments about this application? No? Okay.

Boardmember Lucchino: Why the delay?

Chairman Froessel: Because they did not have County Planning approval.

Boardmember Lucchino: So that's in order now?

Chairman Froessel: That's in order. There's at least one wall sign on the building, correct?

Mr. Scott: Yes.

Chairman Froessel: And that's legal?

Mr. Scott: Yes, all the signage on the building is in conformance.

Chairman Froessel: Okay, is there any intent in the near future to change any of that?

Mr. Scott: They just did I think.

Chairman Froessel: Okay, I figured it may have been part of that, the sign restoration with the building. Anyone else have any questions of the applicant? No? Okay. I have no more questions. Before we close the Public Hearing is there any final statement or anything else you'd like to tell us before deliberate and vote?

Mr. Scott: No I'm fine, thank you.

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

Mr. Scott: Yes I have.

Chairman Froessel: We will close the Public Hearing. I like the fact that the printed area of the sign is being reduced. I like the fact that the height is being reduced from what's there now. I never thought that the Subaru sign was very attractive. My recollection is that existing Subaru sign had a variance given for it under a much more permissive version of the Zoning Code that we have today. I understand the applicant's issue with having so much of that grass area being part of the DOT right-of-way. For them to conform, the sign would be so far back we wouldn't see it from the road really at all so I think that they need a variance no matter what in terms of the location of the sign. That's just my opinion. If anyone else has a different view we are certainly willing to listen to what everyone has to say.

Boardmember Lucchino: My brother owns a Harley Davidson dealership and they're subject to the same franchise rules and then there are penalties if you don't comply and I think that with any business in Brewster we should do what we can to help make it successful. I would have designed a different sign if it was my choice but it's not so...but I think we want them to be successful.

Chairman Froessel: And I think that regardless of what we think of this sign I think it's an improvement over the other one. If not for any other reason than the fact that the Subaru logo itself is half the size and I think it makes for a neater appearance. I think the other had a haphazard look about it previously.

Boardmember Lucchino: It looks like it's in conformance with all the renovations that are going on there and if I owned a business I would want people to drive by and know it was there so.

Chairman Froessel: Absolutely and it's a busy spot there. The road forks and you have a bunch going on and the Ford dealership across the road so there is a whole lot and they need something to catch people's eye there and because the road forks to the right the building is set down and away from the road. You really don't see it until you're on top of it at least if you're going west. If you're going east it's a different story. So that's my opinion. Does anyone have any concerns or questions you think we should address? If not, I will entertain any motion anyone would like to make regarding this application.

The motion to grant the requested variance for the placement of a free-standing sign in the amount of 23.5 ft. where 1.5 ft. is proposed and 25 ft. is required from the property line was introduced by Boardmember Lucchino, seconded by Boardmember Vink. 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.
This is a car dealer in a car dealer neighborhood and the renovations are positive so I think the sign is in conformance with the renovations and character of the neighborhood. I don't think it's a negative at all.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
This is required by Subaru and the sign is smaller than what was there previously and other renovations are being made, poles are being taken down, colors changed and things like that so I don't think there's any other method to get around this and, of course we want the sign to be seen so I don't think there's another way to do this.
3. Whether the requested variance is substantial.
It's a fairly large variance but again if they position that sign differently it will be too low or not visible from the road so I think it's okay.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
I don't think so. This is conformance with the character of the neighborhood.
5. Whether or not the alleged difficulty was self created.
We could say that it is to some extent as it's part of the renovation and part of Subaru's requirements but I think it's a big improvement for the dealerships in the area so if it helps his business grow it's a good thing.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	Opposed
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

Henry Van Motel, 40 Sodom Road – Continued Public Hearing to review an application for a pre-existing, non-conforming, second freestanding sign where only one is permitted and requires the following variances: 5 ft. variance where 10 ft. is proposed and 15 ft. is required; a 60 sq. ft. variance where 84 sq. ft. is proposed and 24 sq. ft. is required; a height variance of 2 ft. where 12 ft. is proposed and 10 ft. is required.

Lance Lavender of OCS Real Property Services approached the bench to address the Board behalf of the Henry Van Motel.

Chairman Froessel: We have a few members here who weren't here last month when you were here. If you could just sort of give us a thumbnail sketch of your application.

Mr. Lavender: Okay. Is it possible I could address something before that Mr. Chairman that I feel is important?

Chairman Froessel: Sure.

Mr. Lavender: If I'm not mistaken when we were closing last month we were talking about a letter that the Town of Southeast Supervisor, Mr. Hay, sent out February 13th and what was not making sense to me in my trying to help Mr. Patel is that he said he never got the letter. So it just didn't make any sense to me so I looked and I looked. I looked through all his folders and files and I called some of the departments and people were sort of asking me to call this one...but finally I found the letter and it was at the Supervisor's office. They mailed something to Mr. Patel and if he would have received it I don't think any of this would have been necessary. When I asked them for a copy of the letter...the front of the letter...it winds up that all these correspondence were being sent to 54 Sodom Road, which isn't his address and there were maybe seven or eight of them. So, in effect Mr. Patel has never received this letter. Never has he seen it and never has had the opportunity to address it. The only thing that's happened is that actions were brought against him so what I...before I...and certainly what I would ask of you Mr. Chairman, I'm just saying we'd like to ask...and I have proof of it right here, the return to sender. They sent it out seven times to the wrong address. I looked through every file he had and he said to me 'if I would have gotten this letter I would have told you' so he never received it. It was sent to the wrong address so what we'd like to know: is it possible to have the letter re-issued to Mr. Patel as all other commercial property owners received it and have him address it as he was supposed to if he was in receipt of it but there was nothing he could do if he didn't receive the letter. He didn't know to come and register. He didn't understand anything about the grandfathering. He didn't have the opportunity everyone else had.

Chairman Froessel: That is not a determination that this Board can make. I think you'd have to get the Town Board to pass some sort of a special resolution because, and I think I mentioned this last month, the letters were sent as a courtesy. We have to apply the Town Code the way it's written. There's no requirement in the Town Code that anyone be sent a letter or that anyone receive a letter. It was done as a courtesy. The rules changed for signs. Everyone has known in this Town for a dozen years that the rules have changed. Signage underwent a huge overhaul in the early 2000s so that's not something that we can do here. All we can do is grant you some type of a dimensional variance or what have you for the sign. If that's something you want to pursue I think you'd have to take that up with the Supervisor's office. I would be willing to adjourn this for a month so you can have that conversation...

Mr. Lavender: That's what I'd like to have happen if you wouldn't mind.

Chairman Froessel: I really don't want to adjourn indefinitely.

Mr. Lavender: We have no interest in doing that and also for the record, unbeknownst to me because I seem to get information late, two months ago a sign company was hired to start the beautification process on this horrible sign and they've been retained to do 4 x 17...and again we would have appreciated the opportunity to call or sit down with Mr. Levine as requested and come in and register and do everything we needed to do and for him to say what we needed to do. He's been running blind so if you would consider adjourning it and letting me go to the Supervisor's office and take it up with them I would greatly appreciate that and I would sort of move this along.

Chairman Froessel: Let me just ask my colleagues if they have any concerns about that.

Boardmember Vink: Are there any violations that are actively in court right now?

Mr. Lavender: Well...

Town Counsel Willis Stephens: Yes there are. Being here stays those actions.

Chairman Froessel: Well I don't want to adjourn this indefinitely. We're willing to go to next month but...

Mr. Lavender: I intend to be in the Supervisor's...I intend to be contacting him tomorrow.

Chairman Froessel: I'll be honest with you, I don't know what relief they can give you but if you want to pursue it I'm happy to let you have until next month.

Mr. Lavender: I would like to exhaust all possibilities under the circumstances. I do believe that without receiving that letter and also other sign owners that might have come up to him and said 'don't worry.' I have it right here: 'if your business sign was lawfully erected prior to January 24th your sign will be grandfathered.'

Chairman Froessel: Then it goes on to say a few other things...

Mr. Lavender: Thank you but you need to get...you need this and you need counsel to look this over and give you advice as to what to do and the Town is generously saying...In February they said 'come on in' and then another letter was issued June 3rd, again mailed to 54 Sodom. I said to him 'how did you not get this letter?' and he said 'I never got it.' I have the proof. It's been returned seven or eight times so, in his defense, if he would have gotten this shame on him but he never received it.

Chairman Froessel: All right, we'll put it over until September.

Mr. Lavender: I appreciate that.

Chairman Froessel: Go ahead to the Supervisor's office. I kind of suspect we're going to be back here in the same posture next month but go see what you can do to try and get some relief.

Mr. Lavender: I'm totally fine with whatever we have to do. We'd like to put this to sleep as quick as possible and get the sign straightened out. Thank you for your time.

Chairman Froessel: You will be on the September agenda and you should be number one on the agenda.

Mr. Lavender: Thank you all for your time. I appreciate it.

JNR Holdings – Nutrishop, 2469-2475 Route 6 – This is a Continued Public Hearing to review an application to allow the applicant to construct a free standing sign (where Town Code only permits either a free standing sign or a wall sign) to be located 5 ft. from the property line where a minimum 15 ft. setback is required.

Attorney Michael Liguori appeared before the Board to present the application on behalf of his client.

Mr. Liguori: Members of the Board, this is a continuation from last month.

Chairman Froessel: Yes, we have a few folks here that weren't here last month so if you could just explain your application.

Mr. Liguori: Okay, sure. JNR Holdings is the property owner. It leases the building to Nutrishop, which is actually operated by the property owner. The piece of property is located on Route 6. It is between Southeast Grille and the Putnam County Savings Bank and we have an application before the Board for a free standing sign to put in front of the premises. This is the property. We're in the Gateway Zoning District. This is the Nutrishop building. This is the site plan from the site plan approval that we...we went through the process with the Planning Board and Architectural Review Board in connection with the change of use of the structure to the Nutrishop. Presently there is wall signage on south wall and the east wall. The east wall is

the one you see from Route 6 and the application is to place a free standing sign on top of a sign pole that is located on the property, approximately five feet from the property line. This is a shot...

Boardmember Keiser: (inaudible).

Mr. Liguori: Okay great I just wanted to...fantastic, okay. So the whole purpose of the application is that it's very difficult to see the wall sign when you are heading eastbound on 6 and that's basically due to the location of the building in that it's 47 ft. from the property line. If it was 50 ft. from the property line we would be entitled to have the free standing sign as a right subject to the (inaudible) but because we're at 47 we have to choose between either a wall sign or a free standing sign. So, we went with the wall sign that's presently there and that's what's called a projecting sign so that's the one that you see and quite frankly there's really no mystery to this particular application. When you're heading eastbound it's very difficult to see that sign. According to the business owner people drive by it when they're looking for it. If there are cars at the Southeast Grille it becomes even harder to see the signage. One of the issues really has to do with the design of the building. It's used for retail but there's no glass that's on the side facing Route 6 so if there was...you know if the light from the business...you'd be able to see in and see what goes on but instead you have that flat wall, which basically you drive by and you think...most people don't even see it. So, there's no issue coming from the other direction. The bulk of the signage for the building is...you can see heading westbound so coming from the westbound that's not an issue at all. So what we did was we made an application to the Building Inspector for the addition of the free standing sign on top of that sign pole and rightfully we were denied given that we don't comply with the requirements of the Code and that's how we got to this Board.

Boardmember Lucchino: So the request is to actually put it closer to the road than what is permitted, is that right?

Mr. Liguori: There are two requests: one is to have a free standing sign and the second...

Boardmember Lucchino: In addition to the wall sign?

Chairman Froessel: The Code allows them only one or the other because he's three feet closer to the road...

Mr. Liguori: Right if I was 50 ft. from...if I had 50 ft. distance between the building and the front property line and, just so you know, that 50 ft...I think this came up with the Subaru sign is that the property line is set back from the actual edge of pavement. There's a good chunk of distance between that but if we had the 50 we'd be able to place the free standing sign and the question for the landowner would be: is it worth it to come to the Board for a variance for the distance of the pole to the front property line or should we just move it back to the 10 ft. and for us, we figured if we have to come here for the free standing sign we might as well as for both and the rationale for asking for both is really...you know it's shown in a picture just having the one car at the Southeast Grille to see...where that car is parked to come in, that sign basically ends in the middle of the car as opposed to the end so we figured 'you know what? Let's ask. If we get it, we get it, great. If we don't, we don't. We move it.'

Boardmember Lucchino: But my question was will the wall sign stay? Assuming you got the variance.

Mr. Liguori: The wall sign would stay.

Boardmember Lucchino: Okay, got it.

Boardmember Keiser: And why do you feel you need both?

Mr. Liguori: Because...both the wall sign and the free standing sign? You know I actually haven't asked that question to the George Restrepo. I presume his answer would be, like any other business owner, we'd like to have as much as we could. If we had to go back to him and

say 'look you have a choice between wall signage or a free standing sign' we could do that. My preference would be to...quite frankly if we had to alter it I think...look I don't have the permission of my client to offer something but I think if George said 'we need to strike a balance' maybe reduce the size of that projecting sign. It's one way to look at it but I don't have an answer.

Chairman Froessel: I'm going to presume to think for your client a little bit here. A couple of times over the last month I've been in that area and if you're eastbound and there are cars at the Southeast Grille House it's hard to even notice this building is there.

Mr. Liguori: Yes that true. I mean that's the point.

Chairman Froessel: For eastbound traffic he really doesn't have any visibility and I'm assuming that's got to be why he wants the free standing sign, to give him the visibility he doesn't have for the eastbound traffic.

Mr. Liguori: That's precisely why we're here and that's why I said there's really no mystery to this particular one. It's set back and it's low. I'm just trying to answer your question.

Boardmember Keiser: I still don't understand why you need both. I think it seems like almost overkill.

Boardmember Cassidy: I will join with you because I can tell you, yes I've driven by there myself and the sign he has now, I'm going to say it's worthless. If you have a Board that would rather give you the variance to have a free standing sign if you got rid of that wall sign...

Mr. Liguori: Rod (Cassidy) if that's the ultimatum then so be it. That free standing sign is very valuable so...

Boardmember Cassidy: I don't have the capacity to issue ultimatums, I'm sorry.

Mr. Liguori: You can place conditions but I just can't offer it. I don't have the authority to offer it but if you say that's the way it's going to be then I'll deliver the message and he'll be happy to have a free standing sign.

Boardmember Lucchino: Michael (Liguori), do you have a picture of the free standing sign?

Mr. Liguori: I do, yes I brought it.

Boardmember Cassidy: Is he the only business in that little cut out?

Mr. Liguori: Yes.

Boardmember Lucchino: And what color is it?

Mr. Liguori: Here's the color.

Boardmember Keiser: And the size is in compliance?

Mr. Liguori: Yes the size is in compliance.

Chairman Froessel: Is there anyone in the audience who has any comments or questions about this application? No? Okay we can dispense with that part of the proceedings. We do have the ability to condition the granting of a variance on other things so that is one option that is available to us.

Boardmember Cassidy: I'm only one vote but I would be inclined to grant the variance if the other sign came down. I'd be less inclined to grant the variance because why should he have two signs and no one else except apparently Southeast Grille who has a bunch of signs.

Chairman Froessel: And the thing is if his building was three feet further back from the road he would get the free standing sign.

Boardmember Cassidy: I think the free standing sign is relative. I think the sign he has on the side of his building is a waste of space.

Mr. Liguori: I get it.

Boardmember Cassidy: I'm not a marketing guy but...

Boardmember Keiser: I think that would be more effective.

Boardmember Lucchino: Michael (Liguori) I think last time I said I wasn't sure that sign was in character with neighborhood so, as I mentioned to you, I did go by and took another look. I think it's okay.

Mr. Liguori: Great. Thank you. He spent a lot of time, effort and money trying to get that place to look the best that it could. It's not a beautiful building by any means so it's...

Chairman Froessel: It's better looking now than it was several years ago.

Boardmember Keiser: Yes.

Mr. Liguori: Yes, especially with the parking lot improvements it really looks sharp. Definitely a lot better than it was let's say before he opened his business there.

Chairman Froessel: The application is what it is. Does anyone else have any questions for the applicant? Does anyone feel the need to go and look at it more closely?

Boardmember Lucchino: I did.

Chairman Froessel: Actually before I close the Public Hearing I should actually offer you the opportunity: do you want the opportunity to take a month to go talk to your client about what he might be willing to do or not do or would he okay with us moving forward with a vote?

Mr. Liguori: You know it's a great question. I know he really does want to move forward to get that sign out there as soon as possible. I agree with Rod (Cassidy) and Deb (Keiser). The only thing I don't have is permission but I think with the timing the way that it works I think I'd rather have the Board vote. If we had to come back I'd be able to get back by September so at least I know I'll have a direction. If he says 'all right, fantastic. We got the sign. Let's get to the ARB and get this thing going.' If I disagreed with the Board I would say give me the month but I think we're going to be just fine the way it is.

Chairman Froessel: Okay. That's fine. I just wanted to give you that option.

Mr. Liguori: No I know. I appreciate it.

Boardmember Cassidy: Now we have to figure out how to word the vote because the free standing sign can be one vote and we deny that then doesn't the second application of how far away from the road becomes...

Boardmember Vink: No because granting...if we grant the second part of the application then he's got his option. He can't have the free standing sign the way he wants it and the building one where it is so I think if we deny the first part but we grant the second part it gives him the choice of which one he wants.

Chairman Froessel: Fair enough.

Boardmember Vink: That's the way I look at it.

Chairman Froessel: And I agree. Before we close the Public Hearing Mike (Liguori) do you have any final comments?

Mr. Liguori: No, just thank you. Appreciate it.

Chairman Froessel: Do you feel you've been given a fair and adequate opportunity to state your case?

Mr. Liguori: Yes.

Chairman Froessel: Okay we will close the Public Hearing. My suggestion would be to split this into two votes. One vote on the additional sign, the free standing sign in addition to the wall sign and then a second vote on the setback for a free standing sign, which would be conditioned upon the approval of the wall sign so that it needs to be legal in terms of the number of signs.

Mr. Liguori: Is that consistent with what you were thinking?

Boardmember Vink: Not exactly. I was thinking of doing it as one application and wording it so that the choice has to be made, assuming that we're all onboard with where we are going with this, that then he has the choice of which one he going to go ahead with.

Chairman Froessel: Okay. That's fine. You should be the one to make the Motion.

Boardmember Vink: Then I will if you will entertain a Motion.

Chairman Froessel: I will entertain a Motion.

Boardmember Vink: I will make a Motion to deny the application for both a wall sign and a free standing sign and to grant the application of a 10 ft. variance on the front yard setback for a free standing sign.

Mr. Stephens: It has to be on the condition that the wall sign is removed.

Boardmember Vink: The application is to deny him having both signs so it actually gives him the option to choose to maintain one sign or the other.

Mr. Liguori: Could we just have...maybe the easiest way to do it is that...well there are two variances: one is to have...

Mr. Stephens: I know the application.

Mr. Liguori: Okay.

Mr. Stephens: I'm listening to the Board discuss the concept of granting the setback variance on the condition that the wall sign be removed and if you don't choose to accept that, if you don't want to accept that, then it stays status quo.

Mr. Liguori: Okay. The only difficulty that I was having was that when you first said it or when you raised the concept I got it but when the motion was made I just wasn't sure if that was exactly what the net result was and quite frankly if the net result is that there's a free standing sign, it's permitted to be 5 ft. from the front property line but it conditioned on the wall sign coming down then that is precisely what we're asking for. If that could be the resolution...

Boardmember Vink: Why don't I phrase it that way? I'll amend my motion. I would move to grant the applicant a 10 ft. variance in the front setback for a free standing sign conditioned upon the removal of the wall sign that currently exists.

The motion to grant a 10 ft. front setback variance for a free standing sign conditioned upon the removal of the wall sign that is currently existing was introduced by Boardmember Vink, seconded by Boardmember Keiser. 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 there will be any change whatsoever. In that area some of the other businesses like Southeast Grille have both a free standing sign and however many signs they have there. I don't think there is any change in 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 it can't because of the layout of the property you cannot have a sign that's a conforming sign without a variance.
3. Whether the requested variance is substantial.
It will be within 5 ft. of the property line but there is still a setback before you get to the road so I think in the grand scheme of Route 6 that's not a substantial variance.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There is no evidence of that at all.

5. Whether or not the alleged difficulty was self created.
I don't believe so. It's a consequence of the layout of the property and the building location.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

Brewster Honda Service Center, 950 Route 22 – Public Hearing to review an application that seeks permission to:

- Construct three "wall" signs where one is permitted;
- To erect a freestanding pole sign that is not located on street frontage with vehicular access, which is required by Code Section 138-75.1.C.1.a.;
- The pole sign would also require a height variance of 50 ft. where 65 ft. is requested and 15 ft. is permitted; a variance of 141.38 sq. ft. where 191.38 sq. ft. is proposed and 50 sq. ft. is permitted; and a variance to be located 12 ft. from the property line where a minimum setback of 25 ft. is required

Ronald Levesque of Sign Studio, Inc. was sworn in and the mailings were found to be in order.

Mr. Levesque: I'm representing Lia Honda Brewster.

Chairman Froessel: Are we all set on the mailings?

Secretary Desidero: I'm almost done.

Chairman Froessel: While she checks on the mailings why don't you go ahead and start.

Mr. Levesque: What I'm going to do today is give you an abbreviated version of what we're doing because after sitting back there I see that the Board has the experience dealing with all the manufacturers I've heard tonight several times so I'm not going to be redundant in going over all the virtues of why a car manufacturer has the branding that they seek so desperately. Basically what it comes down to is this: when we put the package together to present to the Board tonight...this went back a year or so ago, we looked at your Code and we said 'what can we do to bring this in compliance with the Code.' Of course it's going to require a variance but there are some things we can do to bring it in line with what the Town of Southeast has done in the past. Basically looking at the application...we'll talk about the wall signs first. We'll talk about the free standing sign second. We're asking for an additional wall sign. Right now we have a business called Lia Honda Service Center. What's unique about them? Lia Honda Service Center is not a sales building; it's strictly a service center. Another thing unique about it is that there is no showroom there. All of the customers when they go there they will not be parking their cars and walking inside like they would a showroom. They'll be pulling up to the drive-thru bays, the door will open, they'll pull in and they'll be met with a service coordinator inside. So, basically what you have for identifying them is one wall sign permitted for each

building depending on the frontage. It includes the name of the business and the franchise so we have the one name that's Lia, we have the one franchise which is Honda, and we have the service center which is a directional sign. Also, which is listed on there is that you may authorize convenience signs which convey information and directional purposes so basically nailed it right down to those three. We have the convenience sign for directional purposes. We have the name of the business and we have the franchise so those three are there. We brought it all in so that it's under the square footage that's allowed by Code. That's the abbreviated version. The virtue of having it of course is that you have to direct the people to the new system. No different than you would have for a bank having drive-thru tellers, you have it at McDonalds, Taco Bell, Burger King: they're all entitled to additional signs that direct the client through their drive-thru so this is the same thing we're going to have here. So, basically they're not being a sales building. It's a service center. We're going to list it as a service center on one side of the building, that's going to be right there above the garage bays. People will come up the long driveway, probably a couple hundred yards back from the road. They'll come up the long driveway and they'll direct them right into those two bays. Lia Honda is the name of the business and Honda is the franchise. Again, we are under the square footage allowed. We did add the Honda logo to the building and Honda, again don't let me be redundant, but the Honda branding is very important to them. Carrying the Honda logo on the building is just as important to them but we wanted to bring this as close as possible so the Board would see that we did compromise and are looking for something like what the Board has been generous enough to offer in the past and find favorable. Does anyone have any questions?

Boardmember Lucchino: Yes. There's a new Honda sales room being constructed?

Mr. Levesque: This is the one that...now it doesn't have a CO yet so I don't want to confuse you that yes it was just constructed. It's up on the hill? That's the service center. It's not a sales building.

Boardmember Lucchino: That's what we're talking about here, the brand new facility.

Mr. Levesque: Yes, strictly service center so most, if not everyone, will be driving right into the overhead doors and bays and meeting up with the service coordinators inside.

Boardmember Lucchino: I know how it works. I just wanted to be sure I knew what you were talking about.

Mr. Levesque: In the near future there will be a new sales facility but it will not be connected to this building or the lot.

Boardmember Keiser: The sales facility will be on that side where the service center is going?

Mr. Levesque: No it will not be connected to this lot and will not be connected to any of these buildings at all. This is a totally separate facility.

Boardmember Keiser: There's a sales center on the left hand side of the road heading south? So the sales center is now on the right hand side of the road. They sell Hondas there.

Mr. Levesque: They sell in the original building they've sold them in for years.

Boardmember Keiser: That's going to change?

Mr. Levesque: That's going to change.

Boardmember Keiser: Okay. What's going to happen to that property that's there now?

Mr. Levesque: They'll probably tear everything down and just build a new facility there. Odds are they're going to...

Boardmember Keiser: The one you're talking about is service?

Mr. Levesque: I think if you look at Allview Ave. where Allview Ave. turns...if you're coming from here where we are now it turns to the left. It's right there at the Y. There's an entry there now that goes right up to the new building.

Boardmember Keiser: And did you say there's going to be a sales facility there as well or in the future?

Mr. Levesque: No there is not.

Boardmember Keiser: That's only service?

Mr. Levesque: We are talking service.

Boardmember Keiser: There's service on one side of the road and sales on the left.

Mr. Levesque: So if they want to come in for service they're going to have to go the service center facility, not the sales facility. It won't be a showroom now. So we talked about this convenience, this directional sign, we're talking about the service center sign so it can direct people into their drive-thru and then we're looking for the name of the business, Lia and the franchise, Honda.

Boardmember Lucchino: So if you make that left onto Allview you have to make another left to go into the service center, right?

Mr. Levesque: Correct.

Boardmember Lucchino: And then as you're driving toward the service center it's going to look like this, correct?

Mr. Levesque: Correct. So that road is just to the left coming up of the service center entrance and then runs right in.

Boardmember Lucchino: Are these lighted?

Mr. Levesque: Yes they are.

Boardmember Lucchino: They'll be on at night?

Mr. Levesque: They will be on until one hour after closing so you won't have them on 24 hours.

Boardmember Lucchino: Will it be around 7 pm?

Mr. Levesque: That will vary with the different times of the year but...

Boardmember Lucchino: But it won't be midnight will it?

Mr. Levesque: No, no. It will not be in the night. I've done a lot of their facilities and I have yet to see one open until midnight.

Boardmember Lucchino: Mandated by Honda?

Mr. Levesque: Yes.

Mr. Stephens: I believe in their Special Permit there are limits of hours of operation so that's already been determined by the Town Board.

Boardmember Lucchino: Well this would be pretty bright so I don't know how having all these bright lights at midnight will be.

Mr. Levesque: Well the blue lights of Honda are not that bright. It's a periwinkle type blue so it's like when you look at them...it's not like someone is going to be blinded.

Boardmember Lucchino: You're pretty close to some homes there though in all fairness so I'm sure they don't want to go to sleep with these lights shining in their windows.

Mr. Levesque: Right, sure. I did notice that they put up a pretty nice tree line berm there too so they are socially conscious I would say.

Mr. Stephens: Refresh my recollection, when you went through the Planning Board process were there not signs indicated on the Site Plan?

Mr. Levesque: Yes. They didn't have a problem because like I said we followed the guidelines here.

Mr. Stephens: You followed the guidelines. Now you're just...

Mr. Levesque: Going for the Zoning variance for it.

Mr. Stephens: Now you're seeking variances, getting approved signs that were not in compliance?

Mr. Levesque: Correct. We're allowed one wall sign up to 147 sq. ft. by calculations with the building square footage and we're coming in underneath that so the one sign that...if you look at service center, is that more of a directional sign because it's directing everyone to a drive-thru? Like a bank, you know a drive-thru sign. Or do you pick Lia or do you pick Honda? Basically what it is: it's Lia Honda Service Center. That's what it is but we can't put Lia Honda Service Center there because that would put service center all the way down the end and not over the service area so we had to divide them up and that's why we need a variance. If we did Lia Honda Service Center we would have been one sign.

Chairman Froessel: I think the point that Counsel is making is that the signs should have been indicated like this when you were before the Planning Board. During the Planning Board process it would have been referred to this Board for a variance before you ever got a Special Permit but in any event here we are.

Ms. Desidero: I just want to say the Planning Board almost never reviews the signs as part of the Site Plan.

Chairman Froessel: They would have sent it to us. If there had been signage that was...

Ms. Desidero: Well they give them the option and most everyone decides to come back later for their signs.

Mr. Stephens: These signs were from the Site Plan if my recollection is right.

Ms. Desidero: I'm not sure that these exact signs were. I think some signs were shown but I don't think they were reviewed or they would have been sent for variances.

Mr. Levesque: When I spoke to the Building Department it was brought up that even though it's Lia Honda Service Center he would have given us the permit for it but because we are dividing them up and there is such a space between them he requested that we put in for a variance for it. But again, going through the Code it said you're entitled to the name of the franchise, which is Lia and the franchise, which is the manufacturer Honda.

Chairman Froessel: The size of each of these three wall signs is in conformance with the Code information for one sign.

Mr. Levesque: Correct. So if you add them all up separately they're still in compliance underneath the maximum square footage allowed for that facility.

Chairman Froessel: Well that's what I'm getting at here. If they were all one sign the square footage of all three of them together as one sign would still be in compliance?

Mr. Levesque: Correct.

Chairman Froessel: Okay.

Mr. Levesque: Because actually when you separate them you actually go down in square footage because that spacing in between each word is now eliminated. It's not huge but it is some. It was not needed though in this case because we're still meeting the square footage.

Chairman Froessel: Okay. Now, where is your 65 ft. tall sign supposed to go?

Mr. Levesque: The 65 ft. high sign is going to be in the back corner of the lot so if you were looking at the building coming up the driveway and you see where it says Service Center? That corner of the building? To the left of that all the way in the back corner. They recently had

done some reconstruction back there and added a bike trail/walking trail/jogging path so it's basically at the bottom of that hill on the lot in the back corner.

Boardmember Lucchino: Behind the building?

Mr. Levesque: Behind the building.

Chairman Froessel: So that would be what, the northeastern corner of the lot?

Mr. Levesque: Correct.

Boardmember Cassidy: And who sees that sign? What's that sign for? Is that for the highway?

Mr. Levesque: Just the highway and to be honest with you, just the highway.

Boardmember Cassidy: Yeah because I don't think anyone on Route 6 will be able to see it.

Mr. Levesque: No.

Boardmember Cassidy: People on the highway might be able to see but people on Route 6 passing by won't be able to see it. That's my guess. I don't know. It might tower over the building.

Mr. Levesque: Oh it's going to tower over the building. I'm not going to cherry-coat that one. It's 65 ft. in the air. It's going to be up by the highway. It's going to be like a billboard on the highway.

Boardmember Keiser: Why do you need that?

Mr. Levesque: Why do I need it?

Boardmember Keiser: If only the highway is going to see it and if this is a service center as opposed to a sales center: what's the point in having that there?

Mr. Levesque: Because they don't know that.

Boardmember Keiser: What do you mean?

Mr. Levesque: The general public does not know it's a service center when they travel down the highway and they see Honda. They see the Honda brand so they know there's a Honda brand there. So if they get off the exit they'll see the Honda sales center or they'll be directed to it but it's strictly a promotional branding for Honda so it's not going to try to attract the service customer even though it's on the service center. It will serve customers that are looking to go take their vehicle there or are looking for a service center if they're traveling down the highway and they think they need to pull over but it's strictly promotional.

Boardmember Cassidy: So it's really for the property across the street?

Mr. Levesque: Well you can't say that either because one feeds off the other. They're both part of the Lia Honda. Just because you separate them, one can't favor over the other. They're still intricate. You just can't separate the two even though you physically separate them. As an intangible, they are still Lia Honda so I would probably suggest this: for the free standing sign...this Board here, they have a lot of history and knowledge of this community. I'm going to defer to this Board to use that knowledge and experience and life-experience from living in this community to render a decision on how they feel about this 65 ft. sign because I'm not going to sit here and try to push the virtues of Honda having a large branding sign 65 ft. in the air in the community if you feel that your community...it doesn't fit. But, I think the building signs fit. They're a couple hundred yards back from the road. It's very, very far back. Light emitted at 200 yards in the front is not that much. You're going to have a hard time seeing the light at 200 yards away and the letter size that they are at 30 in. is not that great at 200 yards. It's like me putting up a business card in front of here. Yes you're going to see them and yes you're going to read them. That's very central to the business. People need to know Lia Honda and they need to know it's the service center but the impact you're going to get is not as great as it would be if that building was 50 ft. from the road. We're talking 200 yards. It's a great distance and not only that, the road frontage in front of it to see it isn't that wide. It's narrow

going in and then it goes around the tree line so there are other obstacles in the way. You have almost have to make it to the destination over there to see it but once you go there you need to know you're going to see it. It's part of the Honda branding. Honda has to have the name on there and New York State DOT requires the name of the dealership to be on there even though the franchise is on there. Not only does Honda require the branding on there, society demands to know. Society picks what they're going to spend their disposable income on, especially since this is the second biggest expense they make. Regarding the Hondas, they're going to want to see it's a Honda sign. So those are the things that come into play. Like I said, it's kind of redundant. You've heard it all before but I think us coming in here with a sign that is right on the guidelines of what you're saying we're entitled to show, that we did due diligence to bring you a nice package here today the Board can accept except for that 65 ft. free standing sign.

Boardmember Lucchino: The background for the service center and Lia Honda: is the background white?

Mr. Levesque: Yes.

Boardmember Lucchino: And the white is lit as well?

Mr. Levesque: No.

Boardmember Lucchino: Just the blue letters are?

Mr. Levesque: Yes and that's a matte finish. It's basically aluminum-plastic composite. It's a dull finish.

Chairman Froessel: I don't think there's a 65 ft. pole sign anywhere in this Town and I recollect that we made the Mobile station on 22 lower their sign about 20 feet. You're certainly forging a new frontier here without a doubt with that request.

Mr. Levesque: That's why I changed to a different approach.

Chairman Froessel: I'm assuming there are some folks here who have some comments or questions about this application. Yes? Take a number and come on up.

Renee Diaz of 8 Meadow Lane was sworn in and addressed the Board.

Ms. Diaz: I live in the cul-de-sac that is bordering on one of the borders directly opposite this property. To say that my life hasn't been impacted by this is not true and this facility hasn't even started running yet. Right now the lights in the bays are on at night. I don't know if that's going to happen after the facility starts running, however you can see them from where I live and right now all the trees are grown in, all the bushes are grown in. Once fall and winter get here and there is not foliage I will have a direct view of this property from my front window so to add further, in my opinion insult to injury, any more lights, any more signs are just going to make life on Meadow Lane that much more unpleasant. We talk about light pollution. We talk about a current applicant that was in front of this Board tonight talk about reducing light so if you would kindly consider the impact that this proposal is going to have on the neighboring houses that are next door to this facility it would be greatly appreciated. You've also said that nowhere in this Town is there a 65 ft. sign. I don't think putting this kind of sign in this Town is going to help the Town of Southeast. I think it will be detrimental not only to our neighborhood but to the Town. I think it will set a precedent that will not be conducive to the life that we enjoy here in Southeast. Thank you.

Chairman Froessel: Thank you very much. Anyone else?

Keith Green of 3 Meadow Lane was sworn in and addressed the Board.

Mr. Green: We share a property line with Lia Honda. I have to say I agree with everything the applicant said. Particularly this whole red herring of putting up a 65 ft. pole sign is nothing

but a promotion. It's absurd. It's obviously many more times the height than you would allow on a street front and almost four times the area so do with that what you will. In terms of the building signage though I take exception to the fact that service center is directional signage. You know what directional signage is: it says 'make a left' or 'make a right.' It's not two words that are 30 in. high but the fact that they're below the overall area allowed by your Code on a building; I really take exception to it. I do wonder though on the overall Site Plan since what he's proposing is only limited to the Town of Southeast and the street front that he does have is in the Village of Brewster, is there signage proposed for the Village of Brewster yet? I don't know that there is. Right now there are a couple of wooden signs on Allview Ave. that say 'coming soon' and 'apply for a job' and what have you but there has to be something else that's going on there and I wonder what that signage package looks like compared to what's on the building. Certainly we know that it is probably more than a 100 yards or so away but there's a gate there that is part of the Village. There are some other (inaudible) that were granted by the Village. I don't know if there's any signage to compliment this in the other jurisdiction. That's all. I think what's going on in the building is almost as of right.

Chairman Froessel: Do you have any knowledge as to whether there are separate applications for signage in front of the Village of Brewster?

Mr. Levesque: As required by the Village of Brewster, there is an entrance sign.

Chairman Froessel: Okay. What's going to be the size of that entry sign?

Mr. Levesque: I think it's a 5 ft. by 5 ft. There's not a very big head on it. The only thing that's lit is the head and there's an architectural element along with that. Basically it looks like components that were taken from the building and put on there. It's 16 ft. high overall and it's within Code with the Village of Brewster. No variances were issued on that.

Mr. Stephens: Does it just say entrance or is there advertisement?

Mr. Levesque: It's a Honda entrance sign. It's what's required by Honda to enter into their facilities. They have a road sign so it's a road sign.

Mr. Green: A 16 ft. tall road sign.

Mr. Levesque: It's a road sign. It's an entrance sign.

Boardmember Keiser: I'm sorry, can you repeat the dimensions of the sign?

Mr. Levesque: What they call the head, that's the only element that lights up. It's the letters itself. It's 5 ft. by 5 ft.

Boardmember Lucchino: And it's 16 ft. high?

Mr. Levesque: It's 16 ft. high overall.

Boardmember Lucchino: So 5 ft. by 5ft. sits on top of the 16 ft. pole?

Mr. Levesque: No overall height, I'm sorry.

Boardmember Cassidy: There is an 11 ft. base then.

Mr. Levesque: Yes.

Mr. Green: It's just like the Subaru sign that is for their whole property, they're going to do as an entrance sign.

Mr. Levesque: Very seldom...We've seen it and I see that some municipalities are tending to get away from that steel pole. It's a trend that people are saying 'it's a steel pole.' If you can decorate it in any way, decorate it so then you get a trend moving towards decorating the steel pole so a lot of the major franchises that have been coming here with architectural elements that are new and trendy were using old fashioned architectural elements that can compliment a sign that goes in an old building that has historical value so they want to add that to it. But I've seen a large trend getting away from steel poles. I think you probably can see that when you drive down the road in most municipalities, you see a lot of tendency to get away from steel poles. Where you will see a lot of steel poles is...because we have a vast number of start-up

companies where money is a concern to them...that is an inexpensive way to put up a sign. Put up a steel pole, put a box on it and you've got yourself a nice sign but the trend is moving towards that. No different than the trend moving towards anyone that puts a road sign up...the condition of the permit is you've got to put your address on it. I get that at almost every hearing I go to now. It's just 'well if you want a road sign you're going to have to put your address on it for 911.' So you do tend to see a lot of trends, but the steel pole portion, that's coming to an end. A lot of municipalities too have re-written their Code for that monument base, there's a calculation for that that's not included in the square footage, just the heads are. The head itself contains a logo and wording and that's considered the square footage. Not all municipalities are the same of course but those are the trends that I see that we've been going through.

Boardmember Lucchino: What's the status of the application to the Village of Brewster? Do you know?

Mr. Levesque: It's approved.

Chairman Froessel: He said no variances were required.

Mr. Levesque: No variances were required.

Chairman Froessel: I'm sorry, is there someone else?

Laura Green of 3 Meadow Lane was sworn in and addressed the Board.

Ms. Green: I'm opposed to these variances. These are just additional undesirable changes, very intrusive. They're not in character with our neighborhood. Our property backs right up to that property and I would hope the Board would respect the residents there. We've been there for more than 20 years. We'd like to enjoy our yard, to look at the night sky. Enjoy the nature, the animals and now this will be additional lights. We already can see the lights from the sales center down the road right through our house and it's just continues. It's more and more and more.

Boardmember Vink: How long have you been there?

Ms. Green: More than 20 years.

Boardmember Vink: So you were there when it was an operating lumber yard too?

Mr. Green: A very dark operating lumber yard.

Ms. Green: Right, when they were just open occasionally on a Saturday.

Chairman Froessel: Okay. Thank you.

Mr. Levesque: Okay, I can address some of the concerns that they have. One of the issues is the illumination factor: the signs themselves do not add to additional light output. They're blue and their paired with the darker blue so any additional light you see does not transpose itself that distance and does not transpose itself over white lights so if they do have a concern over white lights, it's not the signs that are causing it. It's still the white lights of the building, it still the white lights of the parking lot, that sort of thing. The issue with the signs not being characteristic of the neighborhood: I don't think it's, in my opinion I understand where she's coming from but it's not the signs that are not characteristic of the neighborhood. It's absolutely not the signs, it's the building. It's the facility but it's not the signs. There are no signs on the facility right now, none at all. It's not going to change her mind because it's the facility that she's not in favor of that's not characteristic of the neighborhood. So what I'm asking for is signs that are going on something that's not characteristic of the neighborhood already, which was already given planning approval by your Planning Board so we're at a point in time right now where we can't stop the process. We're going by what your Code says. Are we asking for building signs on a building that aren't in character of your neighborhood, some people say yes, but the signs are not. There are plenty of businesses all around that

neighborhood that had these signs. They're all in their Towns. They're in every town we go to. They're in your Town, they're everywhere in your Town so...but the fact of the matter is their blue and I know I don't have a blue here to show you but the blue is not going to be outstanding compared to the white lights that are there now. It's a subtle blue and they're a great distance away. The signs are going to go off at the end of the night. They'll probably go off before the parking lights go off. There will be security lights there. You have to have security lights there...so the sign lights will go off but the white lights will still be up. Could I speak to the Lia's and see if they'll have maybe a community meeting that maybe they could get together with some of the members of the community and see what they can do to address some of their concerns about the lighting in the parking lot and the lighting on the building...the service bay lights will not be on all night. If the service bay lights are on now they may be inside putting together some lifts and compressors and that sort of thing. Actually I was just there before I came here and the mechanical company that does the lifts were in there putting the lifts up tonight so there are some lights on in there, but the facility will close down at night. I've been doing work for the Lia's for a very long time and they are very socially conscious where Honda pushed to have a logo on the building and the Lia's said 'let's see what the Code says and let's see what we can bring to the Town that's within what their guidelines that they offer us' and that's what we did. We looked at your guidelines, looked at what you offered us and that is what we came in with. We're entitled to Lia Honda Service Center, we're entitled to it on the building but we just need a variance because we want to split it up. There are different elevations on the building. If you were to put Lia here, Honda would be out further and service center would be in further so it just flows really nice. Aesthetically it looks nice and it reads well. Again, some people will say "service center" is not a directional sign but yet everywhere you look in society now we're being directed to service centers, to areas of facilities that we know by the name of what they are. It doesn't just say 'turn left' or 'turn right.' You can't...you see a sign on the highway, guaranteed you're going to see a sign at every turn you make to that facility, every turn. It's called 'way finding' and New York State DOT says if you put a sign on the highway you better put a sign at every intersection to lead that person to that facility and then you see signs. So, you see a sign on the highway that says Citgo, you're going to follow that sign all the way to Citgo. It doesn't tell you to turn right or left, it just tells you who that is that owns it but society is changing, you know? We all pull up to drive-thrus now.

Boardmember Keiser: Well not everyone.

Mr. Levesque: But again, I'm going to leave it in your hands for the 65 ft...I'd rather to tell you the truth, just drop it right now and just go with the building signs and let the public here know that we're not looking to put a lot of signs up there. That's not what we're looking for.

Boardmember Cassidy: Well I would certainly say that the request for a 65 ft. sign is inconsistent with your position that they're socially conscious and they want to help the neighborhood.

Mr. Levesque: Well, I see your position there but you can still say the Lia's are socially conscious but that doesn't mean that Honda is socially conscious when it comes to trying to get as much as they can. So does Lia have a real say in exactly what they're asking for? No. Honda gave them the package. Lia went back and forth with this and that and we came up with...I was involved in the process and I said well if we're going for the building signs you have to remember what your priority is here...primary and secondary, you know? Primary is the building. Let's look at the building first and look at that 65 ft. sign afterwards. I already knew that was something that I didn't want to touch, you know? Just seeing it but...I even tried to opt out of it saying 'I don't even want to do that' and I'm just taking your money from you. You're going to send me to this Board to do this? But they said take the package and go with

it. But when I sat down with the Lia's and we talked about building signs we did come to some agreement that...we looked at the Code. I had it right in front of me. I said 'let's bring it in to what they're outlining.' You know? If we hit these key points...bring it under square footage, we're good. If you see all these Honda dealerships now you'll see Honda on every building, the big logo, the big H.

Boardmember Lucchino: So are the Lia's willing to do anything to mitigate the effect on the residential homes nearby? In other words...and I asked you this before we heard from the homeowners about the lights shining into their windows when they're trying to go to sleep...are they willing to do anything that mitigates that effect? Any landscaping or plantings? Just for the residential homes.

Mr. Levesque: Right because I know when they went through Planning that there were stipulations that Planning already gave them and your attorney can probably tell you that there probably were several stipulations through Planning that they had to meet as far as the lighting laws, the landscaping.

Chairman Froessel: I imagine there had to be a landscape plan.

Mr. Levesque: Right, there was a plan...I heard through a meeting we had and I wasn't even part of the meeting but they did mention that numerous acres of one side of the lot are not to be used for anything so they took a large part of that lot and it's just going to be blank space.

Boardmember Lucchino: What landscaping specifically? Is there anything that's going to be done to mitigate the effect of the light shining onto the homes at night?

Mr. Levesque: Exactly. And that I can't answer because they've already stipulated that through Planning and they've already agreed to it and they've already complied with it, I can't stand here and make any changes.

Boardmember Lucchino: You don't know the answer.

Mr. Levesque: I don't.

Mr. Stephens: When the Planning Board gave its review there was a lighting plan that was approved and it shows...I believe the plan dictates the amount of bleed over that was allowed and things like that so it is something that was addressed as part of the planning process. Whether it's satisfactory to the folks that are in the neighborhood I don't know but I do know that part of the approval did include the establishment of a planted berm to try to separate the commercial property from the residential property.

Chairman Froessel: Do you know if that berm has been implemented?

Mr. Levesque: Yes everything has been planted. I know...

Mr. Green: Can I ask a question about the lighting? Does the approved Site Plan have hours of operation? I know that the site lighting also says one hour after closing. It doesn't say building signage lighting. Is that something that the Planning Board or the applicant would be asked to add to it so that...?

Mr. Stephens: I think that that would be part of the light plan but I can't say specifically because I haven't reviewed this file in quite some time but I do remember that those things were addressed in response to the concerns of the neighborhood.

Mr. Green: Site and security lighting were addressed.

Mr. Stephens: Right but even the hours of operation, the amount of light that could be on the site post hours of operation were addressed.

Mr. Green: This sign that he's offering, that the sign is off one hour after closing...I wonder if that needs to be memorialized or if that's just...

Mr. Stephens: Certainly if this Board is going to consider the variance for the multiple signs in front of the building you could also condition that it be extinguished...if you were going to consider their application you could always condition it in the variance that they have to

extinguish it by a certain time after closing. There is no reason why we should have 24-hour lit building signs.

Mr. Levesque: All the signs are on timers so any condition that the Board stipulates to it can be done because they are all on timers.

Chairman Froessel: Is there anyone else that wants to give any comment or ask any questions of this applicant? No? Okay.

Mr. Levesque: We're already entitled to one sign so if you want to look at it that way we could take the service center and add the Lia and Honda to it because we're entitled to the one sign so we actually asking for two additional signs and Lia and Honda are not the biggest part.

Boardmember Lucchino: We got it.

Chairman Froessel: Does anyone have any questions? Does anyone feel the need to go look at it or do any research? No?

Boardmember Keiser: I've seen it.

Chairman Froessel: I've only just really taken a closer look at it myself in just the last couple of weeks but I haven't at night.

Boardmember Lucchino: Yeah I don't have a very good sense of how bright it is at night.

Boardmember Keiser: Yeah I agree with that.

Chairman Froessel: Nor do I.

Boardmember Lucchino: If we could see a picture of that, that would be really helpful but I know if I lived there I wouldn't want those lights shining in my window after, I don't know, 9:00 or when people go to bed or have children...

Chairman Froessel: And I think that to the extent that someone wants to make a motion with respect to multiple wall signs, the applicant has offered and I think if it's consistent with the Special Permit that it be conditioned on the lights being turned off at a certain point because I don't think it should be all night considering this borders a residential neighborhood.

Boardmember Vink: And there's not really any purpose to have them on.

Chairman Froessel: No there's not.

Boardmember Lucchino: That's right.

Boardmember Vink: Especially if they are theoretically directional signs.

Chairman Froessel: Right to the extent that it's a directional sign, no one is going to need directions at night.

Boardmember Keiser: What are the hours of the service in the building?

Mr. Levesque: Service opens up early in the morning, typically around 7 a.m.

Boardmember Keiser: Okay so that's fine. What about on the other end when it gets darker?

Mr. Levesque: When it gets darker, typically some service is going on until around 7:00. Some days they're open until 9 but that's the latest.

Boardmember Keiser: Okay in summertime but in the wintertime that's four hours of lights during the times it is dark earlier.

Mr. Levesque: Yeah because it is a service facility they are going to need lights there if they're going to stay open. If they are going to be open from 4:00 in the winter until 9:00 at night they're going to have to have lights but once they close...you figure most of the time when they close a facility at 9, give them some time to finish up any close-outs they have to do and whatever leftover customers where they have to finish up their cars so usually no more than an hour later than closing at the most they should be out of there.

Mr. Stephens: Not in keeping with my recollection of what the Special Permit allows. You're not talking about working until 9:00 at night. I don't think that your Special Permit allows that.

Mr. Levesque: No we would follow the Special Permit. Again, I wasn't privy to the planning process and what they stipulated to but...

Mr. Stephens: It was the Town Board.

Mr. Levesque: It was the Town Board? Yeah. So we would...you know if you wanted to say 'follow the guidelines that have been pre-established' we would follow the guidelines and say one hour after that.

Chairman Froessel: I can't imagine the Town Board would put 9 p.m.

Mr. Stephens: I don't recall the exact time.

Mr. Levesque: It's very rare that I see a service center for Honda open until 9.

Chairman Froessel: I own a couple Hondas and I think it's pretty rare for me.

Mr. Levesque: I think the latest I've seen one is 7:00.

Mr. Green: It's 8:00 on one night I know.

Mr. Levesque: You have 8:00 there?

Mr. Green: Yes, one of the nights is 8:00.

Mr. Levesque: So they would be off probably right around 9:00 worst case scenario.

Chairman Froessel: Do we want to keep the Public Hearing open or do we want to close the Public Hearing and vote?

Boardmember Lucchino: Well I'd like a better sense of what the Planning Board said in terms of hours for the lighting and I'd feel a little more comfortable if I had a sense of how bright it is at night. When I drive home I'll drive by there and I'm going to look and see although it's late so maybe nothing is on.

Mr. Green: It will be lit up because they're working there and it's white, cold light. All the bays are lit up but I think it's because they're working on the facility.

Chairman Froessel: Perhaps what we should do is hold this over until next month. I think that Victoria (Desidero) could probably get us the language of whatever is in the Special Permit so everyone knows the hours of operation. We'll also take a drive by and get a better look, get a better sense.

Mr. Levesque: There won't be any signs on there. You won't get a feel for what I'm here for tonight and what I'm here for tonight is the signs and you won't get a feel for that.

Chairman Froessel: Since the facility is not open, will we be able to get onto the property to at least take a look at what site lighting is there and what have you?

Mr. Levesque: Tonight probably on your way home the gates may be open because I know there's a crew in there but I think the latest they said they'll be there is midnight tonight.

Ms. Desidero: There is a gate. When there's no one there you can't get in.

Mr. Green: You can go on the bike path.

Boardmember Lucchino: The other thing is, there's another road and no one is here from this road, I think it's Carroll Drive. They're up high and they just have spectacular views and so I might tonight just drive up there and look and see what happened to their view. I mean the road is steep and then the driveways are steeper and the houses are up on top. I am curious about what the view looks like with all these lights. I might just drive up there.

Chairman Froessel: Okay. So we're going to keep the Public Hearing open and we will be back next month, September 19th.

Mr. Levesque: Okay so the reason is: you're checking site lighting?

Chairman Froessel: We want to take a look at the property, take a look at the site, and we also want to drill down the terms of the Special Permit that was granted regarding the hours of operation as we want some clarity on that.

Mr. Levesque: The hours of operation is in the site plan. It's all public record just so you know that. I don't want the condition of the sign to be based upon what's already been pre-approved.

Chairman Froessel: No, I think we just want to know what we're getting into.

Mr. Levesque: Okay, I'm just saying because I have to make my report as well and it just kind of feels like it's being based upon the site lighting so, but I do agree though that you should look at the Special Permit so that we can make a condition of the signs that were...

Mr. Stephens: What the Chairman said is that he wanted to see what the hours of operation are...

Mr. Levesque: Right, that's what I'm saying. I agree with that wholeheartedly. I absolutely do agree with that so that what you stipulate we would have the exact timing.

Chairman Froessel: Before we vote on something, we want to know exactly what is there.

Mr. Levesque: Right, exactly. I do agree with you.

Ms. Green: One last thing, are there photos available of the proposed signs?

Chairman Froessel: We have some in the packets that we've been given.

Ms. Desidero: Yes, you can come see them in our office at One Main Street. You can look through the application if you'd like.

Ms. Green: I was just wondering if they were part of the application.

Ms. Desidero: They are and just call before you come to make sure we're there because we don't want you to waste a trip.

Mr. Green: Friday they're open until 9. Saturday 8-4 p.m. and weekdays 7 a.m. to 8 so Fridays they're open until 9 at night.

Chairman Froessel: Okay. Victoria (Desidero) if you could get us whatever was approved that would be great.

Ms. Desidero: Yes, I will get you that. It's a Special Permit from the Town Board. I have it in my file so I'll just scan it and send it to you.

Chairman Froessel: Great, thank you.

Warren Paukner, 206 Tonetta Lake Road – This is a Public Hearing to review an application that was previously approved by the Zoning Board of Appeals contingent that the property was brought into compliance with the Putnam County Health Department which has not happened within the allotted timeframe. 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.

Chairman Froessel: I am recused from this matter so Vice Chairman Vink will hear this application.

Mr. Liguori: This is an application for Warren Paukner. This was before the Board before with a grant of a number of variances to permit essentially two residences on a single piece of land. We left the Zoning Board of Appeals, dug some Deep tests that needed to be dug in connection with going to the Health Department and encountered a very significant amount of water at a

low depth. We had dug in that area prior to making the application to the Zoning Board and we didn't have trouble when we did that back in 2010. We don't have an explanation for the difference between now and then is but we dug our Deep tests, hit water, and then started a dialogue with the Town about connecting to Blackberry, to the sewer system. The issue that we have on the property is this: there are two residential structures, there are two septic systems, and there is one well. The septic system that serves the apartment that we are trying to legalize, which is above the garage is not permitted. There's no record of it at the Health Department so we have to treat that as if it is a brand new septic system. Start from scratch. Have a hundred percent expansion and because the septic system that's...let's call it the grandfathered septic system...when you make an application for an expansion or any type of expansion, it doesn't matter what the conditions are, we have to show a 100 percent fully conforming septic system, which requires us to put in a four bedroom septic and have a 100 percent reserve and with the water in that area we just can't do it. So what we did was we filed the application to renew these variances that would have expired in June and then had somewhat of a conversation with the Town regarding what to do with Blackberry. We have the correspondence with the Supervisor to indicate that the Town is not really interested in having an outlier piece to connect to Blackberry. They want to have contiguity of parcels to connect with the district. We're very close. It's just across the street from us on the opposite side of Scott. The sewer plant is right up the road so our engineering plan basically would show the septic leaving the two structures, going to a pump station behind Warren's house and then pumped up the road and connected to the nearest manhole, which is where the connection is for Blackberry. It's about 800 ft. away approximately. We've approached the neighbor to see if they're interested in connecting. It's a little bit of a sell to the neighbor because they don't have an issue with their septic system so to speak although they pump fairly often. So the question for them is: essentially what is going to be the cost for them? We have an idea. We know what the cost is to connect for us as far as what is the engineering cost required, what is the pump cost required but there is an overhead component to joining the Blackberry District and we don't have a number yet exactly for what the capital contribution would be. That's something that...I guess we have to come to a resolution as to what that would be. I've looked at the numbers and I can't tell. I don't know if there's a formula that I should follow. I'm directing my question to Will (Stephens) even though I'm not looking for an answer right now but basically they came to us and said 'hey look we...'

Acting Chairman Vink: Can Levon (Bedrosian) tell you about that too?

Mr. Liguori: Yes, we've had some back and forth as to some ideas of what that might look like but the neighbors are essentially in a position that they don't think it's a bad thing. They think it will bring value to their property. We know what the cost would be for us. It would be a little bit less for them because they're not going to have to deal with as much of a line of pipe that we would and essentially if we're putting in the pipe all they would have to do is pay to connect to it.

Acting Chairman Vink: Blackberry has capacity?

Mr. Liguori: Blackberry has capacity, yes. Capacity isn't the issue. Here's the comparison that we had: Bibbo did a functionality and cost assessment for the alternatives that we were looking at. One was to build what's called an elevated septic system which would literally be dirt on top of the ground and we rejected that. We figured it would be very unappealing visually to look at that. I don't know if you've seen behind the diner up at...the Patterson Diner that's right at the intersection of Haviland Hollow?

Acting Chairman Vink: The Putnam Diner.

Mr. Liguori: Yes that's it, the Putnam Diner. There's a raised septic system behind that diner and it's painfully obviously so we didn't think it was a good idea to put that in.

Mr. Stephens: They didn't have an option?

Mr. Liguori: Right they didn't have an option at all and considering...we looked at the cost of that and we looked at the cost of connecting...we're looking about \$40,000 in total and the thought was...at least my advice to Warren (Paukner) was pay for finality. If you can connect, pay to connect. It's worth it because if your septic system that you spend X amount of dollars on fails then you have no finality whatsoever and that was the rationale for trying to move forward to connect to Blackberry.

Acting Chairman Vink: Okay so you're back here before the Board and your variances have expired.

Mr. Liguori: Yes, well we made the application before the expiration. That's doesn't exactly hold them but we at least wanted to be able to get in before...

Acting Chairman Vink: So in theory you are looking for the same variances?

Mr. Liguori: Yes we're looking for the same variances.

Acting Chairman Vink: Or some period of time until you can figure out what you're doing.

Mr. Liguori: Right. Well we know what we want to do. We absolutely want to connect to Blackberry but there are things that are outside of our control for instance...and I'm not looking for something that's open-ended. We know we're still in that enforcement situation because we're not connected to any sewer system. In any event, we have a septic system that's in the ground. We know that but we're still not legitimate until we have whatever it is we need, whether it be from the Health Department to legitimize what's there, which we know we can't get because we can't get the four bedrooms. So for us I think the request would be...I don't think we have to be fully constructed. That was a question that Warren (Paukner) had for me this afternoon: what would vest the variances if the vesting of the variances would be the issue in terms of a Building Permit then I would ask for 6 months or 9 months would be fantastic, not to exceed. I think that would give us plenty of time...more than enough time to get out in front of the Town Board with what's called a map, a petition and a report. I have the petition. I have the map. All we have to do is essentially just pay Bibbo to design the pump system to pump up to the road and the construction plan for the road. The big issue is going to be, if the neighbors decide that they don't want to be part of this thing, am I close enough for the Town Board to consider us as just an outlier. They did also ask us to consider talking to Dennis Sant. Dennis is across the street. I talked at length to Warren (Paukner) about that. Warren (Paukner) is very concerned about trying to have someone connect that's across the state road. He doesn't have a relationship with Dennis Sant and I think Dennis (Sant) is in a similar situation to what we are except without having been in front of the Zoning Board or any Board for that matter.

Mr. Stephens: I'm actually surprised that he's not in your notification circumference.

Mr. Liguori: You know it's funny, I thought he was...

Mr. Stephens: I know it an R-20 Zone right?

Mr. Liguori: Yes so it's a 200 ft. and I thought he was in it and apparently he's not. Same thing, I was very surprised too.

Mr. Stephens: Because the last time you were before the Board I had heard through the grapevine that he was upset that he wasn't notified.

Mr. Liguori: He could join us. I'd rather stand here with two people than just one. The issue with the neighbors is actually pretty simple, once we know what the capital contribution would be the question for them is: would they have to pay the capital contribution even if they don't

let the pump station do the connection in from their property right up front. Let's say they leave five years...

Mr. Stephens: My understanding is that if they were to be included in the District they would only have to pay the contribution if they were going to connect but they do have to pay the capital charge just for being part of the District.

Mr. Liguori: Okay, if that's the case then I may be in good shape with the neighbor, which would allow us to file a joint petition to the Town Board and then be contiguous to the Blackberry District. I'm close. I'm literally across the street from it. If we just had that neighbor then we'd touch the plant. Our construction would still be in the road. The septic lines would come out of the house as they go up to Scott's Place and then basically go up to the manhole that's in front of the sewer treatment plant but that exactly what has gone on between now and the last time we were here. As soon as the weather warmed up we got out there. We obviously had a really mild winter so we were very surprised and we had dug in that area in 2010. We wouldn't have wasted our time to come before the Board if we knew it was going to fail so that's why we're here right now.

Boardmember Lucchino: This is the first time you've asked for an extension of the variances?

Mr. Liguori: Yes. When we were here in December for me to be able to satisfy the Health Department in six months was plenty of time. It doesn't take six months to get a septic approval from the Health Department. We knew we were cutting it a little bit close depending on how it warmed up but we had such a mild winter even at that point that we thought it was okay so we didn't have any objection to the deadline at the time.

Acting Chairman Vink: Anyone have any thoughts? I am thinking this is an application to extend the variances for a period of time.

Mr. Liguori: We formally re-applied as if they were not granted before. That was the proper thing to do.

Acting Chairman Vink: I think we can accept it as an application to extend you the variances granted for a...

Mr. Stephens: Extended conditions.

Boardmember Vink: Correct, extended on condition to take care of the issue itself. I don't know how everyone feels about timing. I don't think I have a problem with extending him time. You have to get it taken care of one way or another.

Mr. Liguori: We're going to know...look if the Town Board says no, we're going to know. We have a chicken/egg situation, which is you go to the Town Board with a map, a plan and a report. A map, plan report is prepared by an engineer. It's a fully designed plan so we've tried to...you know Tony (Supervisor Hay) was kind enough to give us a heads up when he came back to us and said 'hey Mike look, this is...here's the message: get the neighbor on board and essentially it will be more favorable than it would be if it was just you.' So I would be surprised if the Board said...if we had the neighbor...you know 'no we're not going to let you in' if they have capacity and there's no negative impact to the other residents in the District then I don't think it's too big to ask for the extension.

Acting Chairman Vink: Okay. I would be okay with a six month extension on it.

Boardmember Cassidy: Can you do it in six months?

Mr. Liguori: If it can run from today as opposed to from June because I'm already in the middle of August so that would only be four months practically.

Boardmember Vink: Will (Stephens), technically if they expired, can we extend something that's expired?

Mr. Stephens: Well he did make the application for this right before the expiration so theoretically...

Ms. Desidero: No he didn't. I don't think he did. I think you missed the deadline.

Ms. Chiudina: You missed the deadline for the June...

Acting Chairman Vink: Then he misspoke.

Mr. Liguori: I did and I apologize. You know what, it was the Friday before the holiday weekend and I didn't realize that...

Ms. Desidero: Just for the record it was missed and then we moved him to August.

Mr. Stephens: The Town hasn't filed anymore violations against...?

Mr. Liguori: For the pool.

Mr. Stephens: Warren (Paukner) has a pool?

Mr. Liguori: He has an inflatable pool. It's not a 4 ft. pool, it's a 3 ft. pool but it requires a Building Permit.

Mr. Stephens: It probably has a filter and everything else.

Mr. Liguori: Yes.

Acting Chairman Vink: Well we have a May 27th application date which didn't make the June calendar.

Ms. Desidero: Correct it was late for the deadline for the June calendar.

Acting Chairman Vink: But it was filed before the expiration of your time, just not time to get on the calendar.

Ms. Desidero: Yes it was. That is absolutely true.

Mr. Liguori: Quite frankly I didn't even know the Town closed 12:00 on Fridays. It didn't even strike me as a problem.

Ms. Desidero: We close at 2.

Mr. Liguori: No it closed at 12. It was a holiday weekend. I came down at 12:45 with my application.

Acting Chairman Vink: I will make a motion to extend the conditions on the variances for six months from today.

The motion to grant a six month extension for the requested variances was introduced by Acting Chairman Vink, seconded by Boardmember Cassidy.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	Recused

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

Carla Lucchino, 203 Allview Avenue – This is a Public Hearing to review an application for a an existing stone column which requires a 1.6 ft. front yard height variance where 4.6 ft. is proposed and 3 ft. is required.

Carla Lucchino was sworn in and the mailings were found to be in order.

Chairman Froessel: Tell us about your application.

Ms. Lucchino: I moved from Virginia to Brewster and built a house. After the house was built I had some stonework done so as soon as I got on the Zoning Board and I started to hear all the applications for variances for masonry work and things like that I said 'Uh-oh I bet my landscaper didn't get the right permit.' I invited Michael Levine (Building Inspector) over and he took a look. He said 'your front stone columns are 18 in. too high.' I am here asking for a variance for those columns. They're already built.

Mr. Stephens: So you're asking for forgiveness rather than getting the permit first?

Ms. Lucchino: I am. I didn't know. If I had known that landscaper or I could have gotten permission in advance or they would be a little bit shorter.

Chairman Froessel: Our former Chairman once came before this Board while he was the Chairman to get a variance for columns that look remarkably similar to this.

Ms. Lucchino: I think if you...not to dime anyone out but if you went through my neighborhood I probably have some of the shortest columns there. Those homes have been there much longer than mine has.

Chairman Froessel: These were constructed in what, the last year or so?

Ms. Lucchino: Yes. The house is only two years old so it would be about maybe a year ago.

Chairman Froessel: I'm pretty familiar with the community because my sister in law actually used to live on Allview, further up towards the intersection with Turk Hill and there are a number of houses...

Ms. Lucchino: Almost all the houses have them with the lights on the top like mine. It's pretty dark at night. There are no street lights so without those lights you really can't see anything. Not that I'm anxious to sell but when the time comes I want to make sure everything is in order.

Chairman Froessel: I think when we've granted variances for these in the past we have included the height of the lighting fixture. Anyone else have a recollection on that?

Boardmember Cassidy: I think you're right. That was actually my thought when I looked at this.

Ms. Lucchino: Hmmmm Michael (Levine) didn't measure the lights nor did he mention that to me but the light fixture is probably another 10-12 inches high.

Chairman Froessel: That's my recollection is that they included the height of the light fixture too.

Boardmember Cassidy: I think these are bigger than 10 inches and the only reason I say that is in the event your application is granted I don't want you to have to go and chop the top off them to comply with the variance granted.

Ms. Lucchino: That would not be good.

Chairman Froessel: I'm sort of scaling it and I'm thinking it's probably more like 18 inches.

Ms. Lucchino: You think 18 inches?

Boardmember Cassidy: I'm thinking 20.

Ms. Lucchino: Well let's say 20. That way if they're shorter I have nothing to worry about, right? I can't imagine they're that big. I don't think so.

Chairman Froessel: Your other option would be to just measure them and come back next month. You're probably going to be here next month anyway.

Ms. Lucchino: Correct, I will be here. Yes I could certainly do that if you'd like me to do that.

Boardmember Cassidy: It's for your own protection.

Boardmember Cassidy: Actually can she increase the requested variance without re-noticing? She can lessen the requested variance but can she increase it.

Ms. Lucchino: Listen, in all fairness I read the Zoning Code and I don't think it says to include the lights. You have to show me where it says that in all fairness because I don't recall that.

Boardmember Cassidy: You know what, let's take a look and read that and then do this next month.

Chairman Froessel: Is that all right that we put you over until next month?

Ms. Lucchino: Yes that's fine.

Chairman Froessel: The Public Hearing will remain open and we will continue this application next month.

Kevin Rogers, 7 Ridgeview Road – This is a Public Hearing to review an application for a proposed second story addition to a pre-existing, non-conforming single family home, which requires a 14.75 ft. front yard setback variance where 35.25 ft. is proposed and 50 ft. is required; and an east side yard setback variance of 9.25 ft. where 20.75 ft. is proposed and 30 ft. is required.

Kevin Rogers was sworn in and the mailings were found to be in order.

Chairman Froessel: Why don't you tell us about your application?

Mr. Rogers: I'm looking to add a second story on an existing, non-conforming structure.

Chairman Froessel: Are you changing the footprint of the dwelling at all?

Mr. Rogers: Not where the setbacks are required. I'm adding a porch and a two-car garage.

Chairman Froessel: And those are not within those areas that have you here for a setback requirement?

Mr. Rogers: Not extreme is what they...where the staircase is going and the deck is going there will be a 12 ft. variance required as opposed to what he has here which is a 14.75 ft. variance.

Boardmember Lucchino: May I ask you, in your neighborhood...I took a look because I live close by, many of the homes are two-story homes and just a few of them aren't sort of like yours...

Mr. Rogers: I think I might be the only one left on that street.

Boardmember Lucchino: You might so. I think if you were add that second story you would be in conformance with the rest of the neighborhood.

Mr. Rogers: Absolutely. We love the neighborhood and we want to stay there. I have two little kids and a two bedroom house is just not doing it anymore so...

Boardmember Lucchino: Right.

Chairman Froessel: Okay so we have a photograph of your existing house and you are going to go up above that I assume?

Mr. Rogers: Yes.

Chairman Froessel: Over the entire existing structure?

Mr. Rogers: Exactly. That's going to be the second floor and then...

Chairman Froessel: And you have a garage addition?

Mr. Rogers: There is. I didn't take a picture of it but where the cars are there's an existing screen room and attached is the garage to it so it's semi-attached I guess you could say. That's all coming down and the two-car garage with a mud room/breakfast nook will be replacing that but that is actually, except for the two-car garage that will actually decrease the rear setbacks.

Chairman Froessel: The side yard isn't changing. The front yard is also not changing.

Boardmember Vink: Right, the extension is off to the middle of the yard.

Chairman Froessel: So he basically needs two variances for pre-existing, non-conforming dimensions, correct?

Mr. Rogers: I have several letters from most of my neighbors that I could catch home saying that they have no issue.

Chairman Froessel: Okay great. You should hand those up and we will mark them into the record. We won't read them all but mention some of the names. A neighbor at 12 Ridgeview and 8 Ridgeview. One of your neighbors thinks that you are a wonderful neighbor so that's good. Does anyone want to take a look at these? No? Okay. So, second story addition and a two-car garage addition that doesn't impact the setbacks. That's perfect. Anyone have any questions? Anyone in the audience have any questions? Okay. Do we have any further questions of the applicant? Before we close the Public Hearing, deliberate, and vote do you have any final comments you'd like to make in support of your application?

Mr. Rogers: No.

Chairman Froessel: Do you think you've been given a fair and adequate opportunity to present your application?

Mr. Rogers: Yes.

Chairman Froessel: Great. Thank you. This is a type of application that we have seen before. We've seen a number of second story additions where the setbacks were pre-existing, non-conforming and weren't changing. The twist on this one is he's also adding a garage but that's not going to implicate any of the setbacks so if he were to do the garage alone he would get his permit and he wouldn't have to come to the Zoning Board. So it's really those pre-existing, non-conforming setbacks on the east side and on the front of the property. If there is no further deliberation I will entertain any motion that anyone would like to make regarding this application.

The motion to grant a 10 ft. east side setback variance and a 15 ft. variance from the front yard setback was introduced by Boardmember Vink, seconded by Boardmember Cassidy. The Criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance.
No as was pointed out the addition of the second story is perfectly within keeping with the character of this neighborhood and certainly there will be no detriment to nearby properties as noted by the consent of the neighbors.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No it cannot. The existing house is in the setback. It's not getting any closer to the setbacks. The expansions all do not require variances themselves, it just the existing house so there is no method other than a variance.
3. Whether the requested variance is substantial.
I don't believe it is given the pre-existing nature of it and the numbers are not that large in this case.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There is no evidence of it.
5. Whether or not the alleged difficulty was self created.
No it was not because it is a pre-existing, non-conforming situation.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

Space on the Farm, 400-406 Starr Ridge Road – This is a Public Hearing to review an application for a proposed freestanding sign, which requires a size variance of 11 sq. ft. where 15 sq. ft. is proposed and 4 sq. ft. is permitted and a height variance of 4 ft. where 10 ft. is proposed and 6 ft. is permitted.

Attorney Michael Liguori appeared before the Board on behalf of his client, Space on the Farm and the mailings were found to be in order.

Mr. Liguori: So here's the big picture. This is Ryder Farm with 127 acres, it's tremendous. It's been in the same family for almost 300 years.

Boardmember Cassidy: Historically it's the longest lasting organic farm in New York State or in the Northeast, I forget which.

Mr. Liguori: It's one of the first certified organic vegetable farms. There's an entity. It's a not-for-profit. It's called Space on the Farm Inc. It operates on the farm via Special Permit. It's an artist residency retreat program that runs for approximately six months out of the year, from April to October. We have actors, actresses, playwrights, musicians, visual artists, you name it. They run the gambit. They come up to the farm. They essentially commune for about 10 days at a time with other artists, work on their projects and thereafter we essentially track them in the artistic universe and sucker them into donating us money.

Chairman Froessel: The program has actually gotten some very nice write-ups in the local paper.

Mr. Liguori: Yes, it's actually a spectacular program and the quality of artists is phenomenal. It really is tremendous.

Boardmember Cassidy: I've been to an event there. It is absolutely stunning.

Mr. Liguori: Okay great. It is. It's really cool. I've been on the Board since the organization started and quite frankly, Emily who was here before, she was trying to get the thing off the ground and kept getting pointed in my direction because she needed a land-use attorney so I met with her and ran through what was going to be needed. I told her what the bill was going to be approximately. She said 'well we have no money so we can put you on the Board of Directors.' I've been on the Board since the beginning.

Boardmember Keiser: Wasn't there a Hall Gibson there? Is he still there?

Mr. Liguori: Yes and no. Hall passed. Henry Gibson...

Boardmember Keiser: He was really great.

Mr. Liguori: You know I never met Paul. Henry Gibson is Hall's son. Henry is the largest shareholder. There are about 300 shareholders that own interest in Ryder Farm, which is the entity that owns the 127 acres so it's very varied and there are a lot of opinions about how things should happen on the property but with this there are very few people that are actually

hands on in doing stuff. So, the long and the short of it is: Ryder Farm has a sign that presently exists. The only difference between that sign and this sign is the absence of the circle for Space on Ryder Farm, which is their proposed new joint sign that we're going to have built. It will be hand-carved. The existing sign does not meet the Town requirement for signage for dimensions in height so what we figured was we would just ask to essentially leave everything the same except build a new sign that has the Space on the Farm in addition to it.

Boardmember Cassidy: The size won't change?

Mr. Liguori: The size won't change. The location won't change. We'll take down the sign that exists. We're going to spend about \$3,000 on a hand-carved and hand-painted sign, which I think will be a real asset and addition to that area.

Chairman Froessel: So to be clear the dimensions of the sign you're proposing are the same as the sign you will be replacing?

Mr. Liguori: Exactly.

Boardmember Lucchino: Is it rectangular shaped?

Mr. Liguori: Not quite. It has embellishments.

Boardmember Lucchino: A lot of the farm signs are kind of creative. That's why I asked. You know they're not just a square.

Mr. Liguori: Yeah just a billboard. No it's not. Mostly it is aside from the embellishment on the top and bottom. We have plenty of frontage; about 3,000 linear feet of frontage.

Boardmember Lucchino: What color will the sign be?

Mr. Liguori: It's going to have a white background. The letters will be black letters. I'm not quite sure if we have any gold leafing in it. It may and I apologize for not having any color rendering, I just can't get my printer to print it so I didn't bring it but I can supply that if you're looking to see what the colors will be. We have to go to...just so the Board knows if the variance is granted we have to go to the Architectural Review Board and then Historic Sites Commission so we have a little bit more process left before we get it commissioned and constructed.

Chairman Froessel: I will to rely on you and your clients putting together a tasteful looking sign that's not garish.

Boardmember Cassidy: Is it illuminated?

Mr. Liguori: No.

Boardmember Lucchino: Is it suspended?

Mr. Liguori: Yes it's a...as a matter of fact, let me show you a picture. I asked...quite frankly I did not work on...I wrote the legal support for the application but did not make the submittal and this is what it looks like.

Boardmember Lucchino: That's the existing one. So that will come down and a new one will go up?

Mr. Liguori: Yes.

Chairman Froessel: Any more questions? No? Mike (Liguori), any final comments?

Mr. Liguori: No. Well actually just one: Emily's husband is a fellow by the name of Michael Chernus. They met at the Farm. It's actually kind of a cool story. I was at what's called the "Roaming Dinner" where we do this 7 plate meaning 7 course dinner at 7 different places on the Farm. It's a really cool event. Next month we meet in September. So he came up for a play reading. They met, hit it off, and got married. He just announced that he just got picked up to be the Tinkerer in the new Batman movie so that's a really cool thing. He's a pretty big star to begin with.

Chairman Froessel: I don't think any deliberation is required for this one. They're simply replacing their existing sign with a sign with the same dimensions that simply indicates that this

other program exists on the property. I will entertain any motion that anyone would like to make.

The motion to grant a variance to replace an existing sign for a size variance of 11 sq. ft. and a height variance of 4 ft. was introduced by Boardmember Cassidy, 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 absolutely not. That sign has been there probably longer than most of the neighborhood and looks fantastic.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No not really. Because of the size of the property and frontage, if it was any smaller you would just miss it altogether.
3. Whether the requested variance is substantial.
If you look at the pure numbers yes it is but not when you look at the frontage and the existence of the current sign.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
Absolutely not. It's been there for a very long time and there has been no testimony suggesting that it would have an environmental or adverse impact.
5. Whether or not the alleged difficulty was self created.
Yes having a sign is always a self-created condition but again without it the property would be unmarked and again it is so minimal compared to the frontage of the property so I don't see that as an obstacle.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

131 Fields Lane, 131 Fields Lane – This is a Public Hearing to review a site plan application for a new office building referred by the Town of Southeast Planning Board which requires:

1. A variance for 6 ft. in excess of the permitted 30 ft. vertical height of a manufactured slope, per §138-15.1.A(1), where 36 ft. is proposed.
2. A variance for the manufactured slope to be steeper than the permitted two horizontal to one vertical, per §138-15.1.A(1), where one and a half horizontal to one vertical is proposed.

Jamie LoGuidice of Insite Engineering on behalf of Southeast Development Group was sworn in and the mailings were found to be in order.

Ms. LoGuidice: We are here for two variances. A little history on the site itself: we're looking at Fields Lane to build a proposed office warehouse, a two-story building with a roughly 10,200 sq. ft. footprint with associated parking, storm water toward the road, septic area in the back, and reserve area basically up the hill. If you have seen the site it is extremely hilly, a lot of slopes. There is a wetland area down below by Fields Lane, a stream across the street, a stream coming down the western side of the property, and a wetland up in the back. So basically we're looking at a building envelope somewhere in this region of the setbacks for the OP-1 Zone that it is in. So those are all the constraints we're dealing with especially a large grade change, which brings me to the variance we are looking for tonight. Because of the increase in grade that we are faced with from Fields Lane up to the building pad we do go over the permitted 30 ft. vertical height in manufactured slope. We are about 36 ft. in grade change so we are asking for a 6 ft. variance to that section. Also, this particular area in here is proposed as a 1.5 horizontal to 1 ft. vertical manufactured slope where the 2 on 1 is actually permitted. I do have some images of what the applicant intends to have. We did testing in this area when we did the septic and the storm water. They did punch some holes in to see where bedrock was. We did find that within 7 to 10 ft. of the top of the soil so we are pretty confident that we are going to find bedrock. We are going to do basically these types of wall scenarios where we have a rock slope and an landscaped slope as well as at the entrance to the property so they want to have a good appearance coming into the property.

Chairman Froessel: Is this the property that's between the ice arena and the land trust?

Ms. LoGuidice: No. This is across from Durkin Water. So those are the two variances we're looking for. Any questions?

Boardmember Lucchino: Does the extra height cause any runoff concerns or anything like that?

Ms. LoGuidice: Not necessarily. We do have a swale at the bottom of the slope and a diverter at the top just to catch everything coming down from the hillside before it hits that slope so we are taking care of that aspect. Any of the water or anything coming off of the actual engineered slope that is the subject before this Board at the moment is going to be hitting a swale along the side that will be come down to catch basins and then be treated down below by the road.

Chairman Froessel: Can you just with your finger point out the areas that we're talking about here?

Ms. LoGuidice: Yes. So the area at 36 ft. is in basically right here and then...unfortunately we just got a new printer so I can't show you the shaded area but it is essentially the shaded area here that is the 1.5 by 1 engineered slope.

Chairman Froessel: And how are those slopes going to be retained?

Ms. LoGuidice: We're looking at either a rock type surface, a rock cut slope with boulder placement so we can essentially build a wall but it is not necessarily a wall and then in areas where we can we're going to have soil where we'll try and do plantings so we will get the root system to help stabilize.

Chairman Froessel: To be honest, to me your plan is actually preferable to some sort of manufactured wall.

Ms. LoGuidice: Yes, we'd actually much rather do this than like a 'ready-rock' type deal.

Chairman Froessel: And this comes to us as a referral from the Planning Board?

Ms. LoGuidice: Yes.

Boardmember Lucchino: It might be late but can you help me better understand the second part of the variance request. It says 'steeper than the permitted two horizontal to one vertical where one and a half horizontal to one vertical is proposed.' It might be that I'm just tired because it's late but can you give me like a layman's translation?

Ms. LoGuidice: Sure. Basically your Code permits you to have for every two horizontal feet you can go up a vertical foot so you have that slope. We're proposing to have it be a little bit steeper.

Boardmember Lucchino: Okay, got it. Thank you.

Chairman Froessel: And it will be steeper not because of the vertical portion is higher or steeper but because the horizontal portion is a little shorter.

Ms. LoGuidice: Yes and we're before you too because we can't take all the soil off the slope and tell you what's underneath it. We may find that we have a rock slope three feet in some spots that we can have a nice rock space and not have to worry about a manufactured slope but we just won't know until we get in there.

Boardmember Lucchino: In addition to this, what else are you building? Is it a home?

Ms. LoGuidice: No it's an office warehouse building.

Boardmember Lucchino: Got it, sorry.

Boardmember Cassidy: So both variances deal strictly with the manufactured slope? You don't need any variances for the building itself?

Ms. LoGuidice: Yes. Correct, we don't.

Chairman Froessel: And no part of your application has anything to do with the office warehouse designation, correct? Because we have had plenty of those battles in the past.

Ms. LoGuidice: Right.

Boardmember Lucchino: There are a lot of those structures on Fields Lane.

Ms. LoGuidice: There are, yes. This is right in the middle of the zone.

Boardmember Lucchino: What is the ratio of office?

Ms. LoGuidice: Right now it's a spec building so there is not really a lot of...I did bring that with me. He has 5,000 sq. ft. of office and the rest is considered the warehouse portion so I think he has a mezzanine level proposed.

Boardmember Lucchino: Do you know what's going in there?

Ms. LoGuidice: I don't. We don't have a user at the moment.

Chairman Froessel: It sounds like you have a plan with the swales to deal with the runoff and a plan to stabilize in a way that's a little bit better to look at than a pre-manufactured wall. I don't have any further questions. Does anyone else? No? Do you have any final comments you would like to make?

Ms. LoGuidice: No.

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

Ms. LoGuidice: I do.

Chairman Froessel: Thank you. The landscape architect has explained the slope pretty well to us. I think we have a pretty good idea of what it is that they are seeking. If there is no deliberation I will entertain any motion anyone would like to make.

The motion to grant a variance of 6 ft. in excess of the permitted 30 ft. where 36 is proposed and a variance for the manufactured slope to be steeper than the permitted, 2 horizontal to 1 vertical where 1-1/2 horizontal to 1 vertical is proposed was introduced by Boardmember Keiser, seconded by Boardmember Vink. 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 this is in keeping with the character of the neighborhood which has similar structures going up and down Fields Lane.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
Given the grade of the property I think it's essential to make these changes to keep runoff from disrupting the landscape around it.
3. Whether the requested variance is substantial.
I don't believe it is that substantial.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There is no evidence of that now.
5. Whether or not the alleged difficulty was self created.
In so far as the building is being proposed, yes, but if you want to construct a building on that property site obviously changes have to be made to make it work.

Roll Call Vote:

G. Wunner	In Favor
K. Sheil	Absent
P. Vink	In Favor
R. Cassidy	In Favor
C. Lucchino	In Favor
D. Keiser	In Favor
T. Froessel	In Favor

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

The motion to approve the Meeting Minutes of July 18, 2016 was introduced by Chairman Froessel, seconded by Boardmember Wunner and passed all in favor.

Respectfully submitted,
Cathy Chiudina