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CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
August 18, 2020 - 5:05 P.M.

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B E F O R E:

- JOSEPH CIANCIULLI, Chairman
- HARRY SINGH, Member
- JEFFREY LANDSMAN, Member
- HECTOR LOPEZ, Member
- WILSON KIMBALL, Member
- VINCENT GIORGIO, Member

P R E S E N T:

- FRANK LONGOBARDI, Building Department
- ALAIN NATCHEV, Assistant Corporation
Counsel
- LEE ELLMAN, Planning Department

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N/A

NEW HEARINGS

N/A

1 THE CHAIRMAN: It is 5 o'clock, we
2 will start right now. The Zoning Board
3 public hearing for the month of August,
4 2020 is now in session. Would the
5 members introduce themselves starting
6 with Mrs. Kimball.

7 MS. KIMBALL: Wilson Kimball,
8 present.

9 THE CHAIRMAN: Mr. Giorgio.

10 MR. GIORGIO: Vincent Giorgio.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: Jeffrey Landsman.

13 THE CHAIRMAN: Mr. Singh.

14 MR. SINGH: Harry Singh.

15 THE CHAIRMAN: And Mr. Lopez.

16 MR. LOPEZ: Hector Lopez.

17 THE CHAIRMAN: I am Joseph
18 Cianciulli, I am Chairman of the Board.
19 With us tonight is the corporation
20 counsel who represents the Board, Alain
21 Natchev, the Planning Director, Lee
22 Ellman, and from the Housing and
23 Buildings, Frank Longobardi.

24 Okay. We will have the pledge of
25 allegiance led by Jeffrey Landsman.

1 Mr. Landsman.

2 (Pledge of Allegiance.)

3 THE CHAIRMAN: Thank you. Do I
4 have a motion to accept the minutes of
5 the last hearing?

6 MS. KIMBALL: Motion, Mr.
7 Chairman.

8 THE CHAIRMAN: Do I have a second?

9 MR. LANDSMAN: Second.

10 THE CHAIRMAN: Everybody in favor
11 say aye.

12 (A chorus of ayes.)

13 THE CHAIRMAN: Any opposed? The
14 motion is carried, six-zero. Ms.
15 Pearson, I don't think she signed in.
16 I do have an announcement to make
17 tonight.

18 Ms. Pearson is resigning from the
19 Zoning Board of Appeals as of today, as
20 of this hearing. I hope she gets in on
21 it and in the future, will be with the
22 members of the Board.

23 I promised to take the members of
24 the Board out tonight but it is kind of
25 tough with this Covid, but as soon as

1 it gets going, we'll get together some
2 night, believe me.

3 Ms. Pearson has served since 1993
4 to 2020, that is 27 years. She did a
5 magnificent job. She has a lot to be
6 proud of.

7 Cases 5660 and 5661, I am going to
8 make a motion to put those two cases
9 over, do I have a second?

10 MR. GIORGIO: Second.

11 THE CHAIRMAN: Everybody in favor
12 say aye.

13 (A chorus of ayes.)

14 THE CHAIRMAN: Any opposed? All
15 right, that six-zero.

16 We'll have a decision on case 161
17 Bennett Avenue, that is 5682. We will
18 have a decision on Mr. Accinelli, 5697,
19 5698, 5699, 5710 and 5711. We will
20 also have a decision tonight on 5709, I
21 am sorry, 5700 is Mr. Romano at Bainton
22 Street and then we'll have a decision
23 on 52 Yonkers Avenue, that is Mr.
24 Romano, 5709, and we'll have a decision
25 on 5712, that's Pondfield Road, that is

1 Mr. Veneruso, Stephen Veneruso, then
2 5714 which is 372 Riverdale Avenue.
3 5713 we have to wait a little while
4 longer, and on 5714 the attorney that
5 represents the applicant asked for a
6 postponement, so I am going to make a
7 motion to put those two cases over,
8 5713 and 5714. Do I have a second,
9 please?

10 MS. KIMBALL: Second.

11 THE CHAIRMAN: Thank you.

12 Everybody in favor say aye.

13 (A chorus of ayes.)

14 THE CHAIRMAN: Any opposed?

15 That's six-zero. Okay. Case 5715 is
16 1969 Central Park Avenue, we will put
17 that over, that was a continued
18 hearing. We will put that over to next
19 month. We are waiting for the Water
20 Department to get back to us, the
21 aqueduct, so I am going to make a
22 motion to put that over. Do I have a
23 second?

24 MS. KIMBALL: Second.

25 THE CHAIRMAN: Everybody in favor

1 say aye.

2 (A chorus of ayes.)

3 THE CHAIRMAN: Okay. Six-zero.

4 MR. GIORGIO: Mr. Chairman, I
5 didn't vote on that one, that is
6 five-zero.

7 THE CHAIRMAN: That's right, you
8 said that, yes.

9 Mr. Kuntz, put in this gentleman,
10 it is his case.

11 MR. KUNTZ: I am sorry, Mr.
12 Chairman, what did you say?

13 THE CHAIRMAN: But in this
14 gentleman's case, his name is Gaspar.
15 He is on there someplace.

16 MR. KUNTZ: Yes, I see him. You
17 have the floor Jeffrey Gaspar.

18 THE CHAIRMAN: You can put
19 everybody on, if you want. Mr. Gaspar,
20 you are now?

21 MR. GASPAR: Yes.

22 THE CHAIRMAN: All right, case
23 number 5682, is an area variance,
24 Jeffrey M. Gaspar PE, on behalf of Jose
25 and Wilma Cortez, owner, on premises

1 known as 161 Bennett Avenue. Do I have
2 a motion on this? Mr. Singh.

3 MR. SINGH: The subject property
4 is located on the northeast (downslope)
5 side of Bennett Avenue. Due to
6 difficulty safely parking their cars in
7 their legal driveway or on-street, the
8 owners converted a portion of their
9 front yard previously leveled by a
10 previously constructed retaining wall
11 to a parking area wide enough for two
12 cars.

13 The owners were unaware at the
14 time of construction that City approval
15 was required prior to the creation of
16 the parking area. The city has
17 subsequently notified them of the
18 violation of the zoning code (Complaint
19 No. 2018-3327) on file and the owners
20 desire an approval of a variance to
21 properly legalize the parking.

22 Specifically, variances are
23 requested to allow for parking within
24 the front yard, (approximately
25 13-feet), and within the entire 10-foot

1 side yard setback. As such, Mr.
2 Chairman, I make a motion to approve
3 the requested area variances subject to
4 conditions based on facts, findings,
5 information and testimony presented to
6 this Board at the public hearing, site
7 visits by members of the Zoning Board
8 of Appeals or otherwise obtained.

9 In order to grant an area variance
10 the Board must be satisfied on five
11 points of law.

12 1. Whether an undesirable change
13 will be produced in the character of
14 the neighborhood, or the granting this
15 variance will create a detriment to
16 nearby properties.

17 The granting of these area
18 variances will not produce any
19 undesirable changes in the character of
20 the neighborhood and will not be a
21 detriment to nearby properties.

22 The requested variance does not
23 alter the essential character of the
24 neighborhood as other homes have
25 parking in front of their homes and

1 on-street parking is legal.

2 2. Whether the benefit sought by
3 the applicant cannot be achieved by
4 some other method, feasible for the
5 applicant to pursue, other than an area
6 variance.

7 The benefit sought by the
8 applicant cannot be achieved by another
9 alternate, more feasible method for the
10 applicants to safely park their
11 vehicles.

12 The slope of the driveway for
13 garage access is approximately 30
14 degrees, over half the general maximum
15 recommendation of 12-to-15 degrees. In
16 icy conditions, this slope makes
17 entering or exiting the driveway safely
18 nearly impossible. Meanwhile, parking
19 on both sides of the street in this
20 weather causes the street to become
21 extremely hazardous for pedestrian and
22 vehicular traffic, as it is nearly
23 impossible for snowplows to properly
24 maintain the street. Therefore, there
25 is no feasible method available to the

1 applicant without the requested Zoning
2 Board of Appeals variance approvals.

3 3. Whether the requested area
4 variances are substantial. The Board
5 finds that the request is not
6 substantial either numerically or with
7 regards to potential impacts previously
8 noted.

9 4. Whether the granting of the
10 area variance to allow for the proposed
11 improvement will have an adverse effect
12 or impact on the condition or on the
13 physical or environmental conditions in
14 the neighborhood or district.

15 The requested variances will not
16 have an adverse effect or impact on the
17 environmental conditions of the
18 neighborhood.

19 The additional parking spaces do
20 not significantly increase the value of
21 the home. As described above, the
22 purpose of the parking spaces is to
23 provide a location to park the owners
24 cars that are safe for ingress and
25 egress, pedestrian traffic and

1 vehicular traffic. Hence, this will not
2 adversely affect any existing natural
3 environmental appearances such as water
4 use, pollution, energy use, drainage,
5 run-off and flooding, nor create any
6 noise, light, odor, visual or other
7 nuisance conditions.

8 5. Whether the alleged difficulty
9 was self-created, which consideration
10 shall be relevant to the decision to
11 the Zoning Board of Appeals but shall
12 not necessarily preclude the granting
13 of the area variance.

14 The alleged difficulty is
15 self-created. However, as commented on
16 the file from the homeowner, the house
17 at 161 Bennett Avenue, Yonkers, has a
18 very sloped driveway. During the
19 winter, it becomes very dangerous to
20 enter and exit the driveway. As a
21 result, parking in the driveway when
22 there is ice and snow on the ground
23 becomes impossible.

24 When cars are parked on both sides
25 of the street in the winter, snowplows

1 and school buses (school is located on
 2 this block) have difficulty passing by.
 3 By virtue of the applicant's
 4 constructive knowledge of the zoning
 5 requirements, it is possible that the
 6 applicant had knowledge of the
 7 requirements of the Zoning Ordinance.
 8 However, the self-created hardship rule
 9 is merely one consideration guiding the
 10 Board's review and does not necessarily
 11 bar the granting of the variances.

12 Mr. Chairman, in granting these
 13 variances the Board imposes the
 14 following conditions:

15 1. All health, safety, fire,
 16 building and environmental codes shall
 17 be adhered to at all times by the
 18 applicant. 2. The applicant and or the
 19 owner must request encroachment on the
 20 city property from the City Engineer
 21 and the City Counsel.

22 3. Railing must be installed as
 23 per the Building Department and the
 24 Engineering Department requirements.

25 4. One family home only as per the

1 applicant in a May 13th 2020
2 correspondence to the Zoning Board.

3 5. All curbs and/or sidewalks
4 abutting the property that need
5 repairing or replacement as per the
6 City of Yonkers Department of
7 Engineering, then the repair or
8 replacements must be done before
9 certificate of occupancy is issued.

10 6. That if any back real estate
11 taxes and or fines if owed be paid in
12 full within 45 days of this hearing and
13 proof must be submitted to this Board.

14 7. There will be fire/carbon
15 monoxide detectors on the premises and
16 smoke detectors on the premises and
17 hooked to a 24 hour outside monitoring
18 system.

19 8. These conditions shall be on
20 the Certificate of Occupancy, and the
21 applicant and/or property owner shall
22 permit inspections at the discretion of
23 the City's Department of Housing and
24 Buildings, at least once every calendar
25 year, for the purpose of determining

1 that the conditions are being
2 satisfied.

3 9. Should the applicant and/or
4 property owner not comply with, breach
5 or violate any of these conditions, at
6 any time, the approval of these
7 variances is hereby rescinded and
8 authorizes the City's Department of
9 Housing and Building to take
10 appropriate action.

11 10. All expenses associated with
12 these conditions shall be the sole
13 responsibility of the applicant and/or
14 property owner.

15 Thank you, Mr. Chairman.

16 THE CHAIRMAN: Excuse me, I want
17 to add one, Mr. Singh. Another
18 condition. Railings must be installed
19 per the Building Department and the
20 Engineering Department's request.

21 MR. SINGH: Okay.

22 THE CHAIRMAN: Railings must be
23 installed as per the Building
24 Department and the Engineering
25 Department.

1 On the motion, do I have a second
2 on the motion as amended?

3 MS. KIMBALL: Second.

4 THE CHAIRMAN: On the motion, Ms.
5 Kimball.

6 MS. KIMBALL: Yes, for the motion
7 as amended.

8 THE CHAIRMAN: Thank you. Mr.
9 Giorgio.

10 MR. GIORGIO: For the motion.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: Mr. Singh.

14 MR. SINGH: For the motion.

15 THE CHAIRMAN: Okay. Mr. Lopez.

16 MR. LOPEZ: For the motion.

17 THE CHAIRMAN: I am for the
18 motion, the motion is carried,
19 six-zero. Thank you.

20 The next case now, we are going to
21 take these cases together, 5697, an
22 area variance, all Mr. Accinelli, and
23 this one is 56 Ravine Avenue, 5698, Mr.
24 Accinelli again and that's on 69 Ravine
25 Avenue, these are all area variances,

1 by the way, 5699, Mr. Accinelli, and
 2 this is at 76 Point Street, 5010, 78
 3 Ravine Avenue, and then 5711 is another
 4 area variance, Mr. Accinelli, at 50
 5 Point Street. So we are taking this
 6 all together.

7 I think there is a few people here
 8 that want to hear this case. Excuse
 9 me, George, I can't see it that well.

10 MR. LANDSMAN: Everybody is on.

11 MR. GIORGIO: Yes, Mr. Chairman.

12 THE CHAIRMAN: Mr. Giorgio.

13 MR. GIORGIO: The properties are
 14 five vacant lots located along Ravine
 15 Avenue between Gold and Point Streets
 16 and along Point Street at its
 17 intersection with Ravine Avenue.

18 The applicant is proposing to
 19 construct 146 residential units in
 20 three buildings, one six-story mid-rise
 21 and two three-story townhomes on three
 22 lots with associated parking. The plan
 23 also involves construction of a
 24 nine-space parking lot at 78 Ravine
 25 Avenue and an eight-space parking lot

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at 50 Point Street to serve the apartment buildings.

The project requires several area variances as outlined in the Building Application Disapproval letters as revised in response to subsequent revisions by the applicant.

Mr. Chairman, I make a motion to approve the requested area variances, subject to conditions, based on facts, findings, information and testimony presented to this Board at the public hearing, site visits by members of the Zoning Board of Appeals, or otherwise obtained.

In approving these variances the Zoning Board of Appeals has taken into consideration the benefit to the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. Specifically, the Board finds:

One. That the benefit sought cannot be achieved by other feasible

1 means. Given the built up nature of
2 the surrounding area, and as testified,
3 that the applicant has considered
4 various site configurations in an
5 attempt to maximize parking and
6 minimize the number and magnitude of
7 variances requested, it is not likely
8 that there are other feasible means or
9 layouts to achieve the desired benefit.

10 Two. Granting the requested
11 variances would not result in an
12 undesirable change in neighborhood
13 character or a detriment to nearby
14 properties.

15 The Board has visited the site
16 multiple times and finds no apparent
17 detriment to granting the applicant's
18 request.

19 The proposed development is
20 consistent with other multifamily
21 residential development in the area.
22 The development will transform several
23 vacant lots into attractive, modern,
24 managed properties and will provide
25 much needed housing in the area.

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The Board finds the applicant is proposing sufficient parking given the likely demand, and that there would be no significant impacts to light, air, or greenery when compared to existing conditions.

The Board also notes that the applicant originally submitted site plans for consideration at the Zoning Board's April 21, 2020 public hearing, and since that time, has made revisions that significantly reduce or eliminate the number and magnitude of the requested variances.

Three. That the requested variances are not substantial when viewed in terms of the application as a whole.

While some of the variances may be considered numerically substantial, the Board does not believe they would be substantial with regard to potential impacts as previously discussed. In short, the project will transform vacant, non-functioning properties into

1 modern, managed properties and provide
2 needed housing in the city.

3 As testified, the project will not
4 result in significant impacts to air,
5 light or greenery when compared to
6 existing conditions.

7 Four. That the variances will not
8 have a negative impact to physical or
9 environmental conditions in the
10 neighborhood. The project will not
11 result in significant changes to
12 impervious surfaces, light, air,
13 greenery or drainage when compared to
14 existing conditions.

15 The project will be constructed
16 under the direction of the city's
17 Department of Housing and Buildings and
18 will meet all applicable building and
19 environmental codes. Any impacts from
20 construction will be temporary in
21 nature.

22 Five. That the alleged difficulty
23 is clearly self-created in that the
24 applicant only recently purchased the
25 property and could have had actual or

1 constructive knowledge of the zoning
2 code restrictions prior to that time.
3 However, the self-created hardship test
4 is merely one consideration and does
5 not preclude the Board from granting
6 the request.

7 In approving these variances the
8 Board imposes the following conditions:

9 1. All fire, health,
10 environmental, safety, building and
11 zoning codes shall be adhered to at all
12 times;

13 2. Fire, smoke, and carbon
14 monoxide detectors and a fire sprinkler
15 system shall be installed throughout
16 the proposed buildings and connected to
17 an outside 24-hour monitoring system;

18 3. The properties shall be used
19 for residential purposes only, no
20 businesses allowed other than that for
21 routine building maintenance and
22 management or as permitted by the Home
23 Occupation section of the Yonkers
24 Zoning Ordinance;

25 4. The applicant shall install

1 signs at the lot at 50 Point Street
 2 noting that the lot is for exclusive
 3 use of the tenants and guests of 76
 4 Point Street.

5 Further, the applicant shall
 6 install a crosswalk at the intersection
 7 of Ravine and Point Street including
 8 ADA compliant curb ramps and also
 9 install a safe, accessible pedestrian
 10 pathway connecting the lot to the
 11 public sidewalk;

12 5. The applicant shall install
 13 signs at 78 Ravine Avenue noting that
 14 the lot is for the exclusive use of
 15 tenants and guests of 56 Ravine Avenue,
 16 and shall install a safe, accessible
 17 pathway connecting the lot to the
 18 public sidewalk;

19 6. The applicant shall construct
 20 the parking lot at 50 Point Street as
 21 outlined in the applicant's revised
 22 submittal of August 14, 2020, which
 23 involves elimination of certain
 24 variances and creation of additional
 25 variances as outlined in said

1 submittal;

2 7. Any repairs or replacement of
3 sidewalks, curbcuts or any other item
4 within the city right-of-way as
5 required by the City Engineer in front
6 of the properties along Ravine Avenue
7 or Point Street shall be satisfactorily
8 completed by the owner prior to the
9 Certificate of Occupancy being issued;

10 8. These conditions shall be
11 specified on the Certificate of
12 Occupancy and the owner shall be
13 specified on the Certificate of
14 Occupancy, and the owner shall permit
15 periodic inspections at the discretion
16 of the City of Yonkers, Department of
17 Housing and Buildings, at least once
18 every calendar year to determine that
19 the conditions are being satisfied;

20 10. This approval shall be
21 immediately rescinded should the owner
22 violate any of these conditions at any
23 time; and

24 11. All expenses associated with
25 these conditions shall be the

1 responsibility of the owner.

2 Thank you.

3 THE CHAIRMAN: Do I have a second
4 on the motion?

5 MR. LANDSMAN: Second, Mr.
6 Chairman.

7 THE CHAIRMAN: On the motion, Mrs.
8 Kimball.

9 MS. KIMBALL: For the motion.

10 THE CHAIRMAN: Mr. Giorgio.

11 MR. GIORGIO: For the motion.

12 THE CHAIRMAN: Mr. Landsman.

13 MR. LANDSMAN: For the motion.

14 THE CHAIRMAN: Mr. Singh.

15 MR. SINGH: For the motion.

16 THE CHAIRMAN: Mr. Lopez.

17 MR. LOPEZ: For the motion.

18 THE CHAIRMAN: The Chairman votes
19 for the motion, the motion passes six,
20 one absent.

21 The next case is case number 5700,
22 is an area variance, improvement to a
23 nonconforming use, Mr. Romano on behalf
24 of 50 Bainton Street. Do I have a
25 motion, please.

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MR. LANDSMAN: Gentlemen, Mr. Chairman.

THE CHAIRMAN: Mr. Landsman.

MR. LANDSMAN: I make a motion to approve the request for the area variances, and improvements to a non-conforming use, subject to conditions, based on facts, findings, information and testimony presented to this Board at the public hearing, site visits by members of the Zoning Board and otherwise obtained.

The subject property in question is located on the west side of Bainton St, between Empire Street and Kimball Terrace.

In making this determination the Zoning Board of Appeals shall take into consideration the benefit to the applicant and/or owner, if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

To grant an area variance the

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Board must be satisfied on five points of law:

1. Whether undesirable changes will be produced in the neighborhood or a detriment to nearby properties will be created by granting of the area variance.

The Zoning Board has visited the site multiple times and finds there is no apparent detriment to neighborhood in granting these variances.

Legalizing the existing front porch and rear deck will not change the character of the neighborhood.

2. Whether the benefit sought by the applicant or owner can be achieved by some other method feasible for the applicant or owner to pursue other than the area variances.

The benefit sought cannot be achieved by any other means. As stated by Mr. Andrew Romano, Esq., at the May 19th 2020 hearing, if you look at the other houses in line you will see that they are all short on front yards, so

1 they would be in the character with the
2 neighborhood.

3 He also states they have a fence
4 in the back that they can buffer with
5 trees or shrubbery in order to even
6 further isolate, insulate his client's
7 house.

8 3. Whether the requested variance
9 is substantial. While some of the
10 variances are substantial, their effect
11 will be minor since the house has
12 existed on the site for many decades.

13 4. Whether the proposed variances
14 will have an adverse effect on the
15 physical or environmental conditions of
16 the neighborhood or district.

17 There will be no adverse physical
18 or environmental impact on the
19 neighborhood. The applicants are only
20 proposing to legalize the existing
21 exterior improvements. The interior
22 improvements cannot be seen from the
23 street.

24 With the conditions imposed by
25 this Board, these variances should do

1 nothing to negatively alter the quality
2 of life in the neighborhood.

3 5. Whether the alleged difficulty
4 is self-created. The difficulty is
5 self-created when the applicant did the
6 improvements without obtaining permits
7 first, but this does not preclude the
8 Zoning Board of Appeals granting these
9 area variances.

10 The improvement to a nonconforming
11 use is hereby granted by virtue that
12 the proposed site improvements will
13 help to mitigate any existing adverse
14 effects of the current nonconforming
15 use at the property. The Board imposes
16 the following conditions:

17 1. All health, safety, fire,
18 building and environmental codes shall
19 be adhered to always by the applicant
20 and/or owner.

21 2. If any sidewalk or curbs
22 directly surrounding the property are
23 in need of repair or replacing as per
24 the City Engineer, then the applicant
25 and or owner must make repairs or

1 replacements before the certificate of
2 completion is issued.

3 3. All taxes and fines, if owed,
4 must be paid in full 60 days from
5 today's date.

6 4. These conditions shall be
7 listed on the Certificate of Occupancy
8 and the applicant and/or tenant shall
9 permit inspections at the discretion of
10 the Department of Housing and
11 Buildings, City of Yonkers, at least
12 once per year to determine that
13 conditions are being met.

14 5. Should the applicant and/or
15 tenant not comply with, breach or
16 violate any of these conditions at any
17 time, the variance is hereby rescinded,
18 and the Zoning Board authorizes the
19 City of Yonkers, Department of Housing
20 and Buildings, to take appropriate
21 action.

22 6. All expenses associated with
23 these conditions shall be the
24 responsibility of the applicant.

25 7. Fire, smoke and carbon monoxide

1 detectors shall be installed and hard
2 wired throughout the building and
3 connected to an outside 24 hour
4 monitoring system such as ADT.

5 8. The house shall remain a
6 two-family house with no in-law or
7 boarding house setup.

8 Thank You.

9 THE CHAIRMAN: Do I have a second
10 on the motion?

11 MR. SINGH: Second.

12 THE CHAIRMAN: Seconded by Mr.
13 Singh. On the motion, Ms. Kimball.

14 MS. KIMBALL: For the motion.

15 THE CHAIRMAN: Mr. Giorgio.

16 MR. GIORGIO: For the motion.

17 THE CHAIRMAN: Mr. Landsman.

18 MR. LANDSMAN: For the motion.

19 THE CHAIRMAN: Mr. Singh.

20 MR. SINGH: For the motion.

21 THE CHAIRMAN: Mr. Lopez.

22 MR. LOPEZ: For the motion.

23 THE CHAIRMAN: The Chairman votes
24 for the motion, the motion is carried,
25 six-zero. Thank you.

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The next case is 5709, Mr. Romano again, it is at 52 Yonkers Avenue. Do I have a motion, please.

MR. LOPEZ: Motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: Mr. Chairman, I make a motion to approve the requested area variance, subject to conditions, based on facts, findings, information, and testimony presented to this Board at the public hearing, site visits by members of the Zoning Board of Appeals, or otherwise obtained.

In Approving this variance, the Zoning Board of Appeals has taken into consideration the hardship faced by the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. Specifically, the Board finds:

1. That the benefit sought cannot be achieved by other feasible means. As testified, the variance is not substantial in nature because the only

1 variance requested is for (2) parking
2 spaces. The store was entitled to (5)
3 parking spaces.

4 The property is in an M Zone and
5 the main purpose is to crete conforming
6 uses to this apartment in the M Zone.

7 2. Granting the requested variance
8 would not result in an undesirable
9 change in neighborhood character or a
10 detriment to nearby properties because
11 the exterior will remain the same, and
12 the apartment will be in compliance
13 with the M Zone.

14 3. There will be no environmental
15 or physical change because only the
16 interior is to be renovated, and with
17 the store not existing, there will be
18 less traffic and noise.

19 4. This variance cannot be
20 obviated because as testified, the
21 structure already exists.

22 5. As testified, this is not a
23 self-created hardship. The structure
24 was in existence before the zone
25 change.

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In approving these variances, the Board imposes the following conditions:

1. All fire, health, environmental, safety, building and zoning codes shall be adhered to at all times.

2. The proposal submitted to the Board be adhered to. Any changes in use shall come back to the Zoning Board of Appeals for further consideration and decision.

3. These conditions shall be specified on the Certificate of Occupancy and the owner shall permit periodic inspections at the discretion of the City of Yonkers, Department of Housing and Buildings, at least once every calendar year to determine that the conditions are being satisfied.

4. This approval will be for one Family only. No in-law or boarding house setup.

5. This approval shall be immediately rescinded should the owner violate any of these conditions at any

1 time.

2 6. A carbon monoxide, smoke and
3 fire detector shall be installed and
4 connected to a 24 hour monitoring
5 system similar to that of ADT.

6 7. Any curb and/or sidewalks that
7 the City Engineer deemed had to be
8 replaced or repaired shall be done by
9 the applicant and/or owner before
10 occupancy is allowed.

11 8. All expenses associated with
12 these conditions shall be the
13 responsibility of the owner.

14 9. Any taxes or fines, if owed,
15 shall be paid within 60 days from
16 today's date; 08/18/2020.

17 Thank you, Mr. Chairman.

18 THE CHAIRMAN: I want to add one
19 thing to it. If there is any back
20 taxes, fines have to be paid from
21 today's date, is that okay, Mr. Lopez?

22 MR LOPEZ: Yes.

23 THE CHAIRMAN: On the motion.

24 MR. GIORGIO: Second.

25 THE CHAIRMAN: Ms. Kimball, for

1 the motion.

2 MS. KIMBALL: For the motion.

3 THE CHAIRMAN: Mr. Giorgio.

4 MR. GIORGIO: For the motion.

5 THE CHAIRMAN: Mr. Landsman.

6 MR. LANDSMAN: For the motion.

7 THE CHAIRMAN: Mr. Singh.

8 MR. SINGH: For the motion.

9 THE CHAIRMAN: Mr. Lopez.

10 MR. LOPEZ: For the motion.

11 THE CHAIRMAN: The Chairman votes
12 for the motion, the motion is carried
13 six-zero.

14 The next case is case 5712,
15 Stephen Veneruso on behalf of 25/1
16 Pondfield Road. Do I have a motion,
17 please.

18 MR. LANDSMAN: I think that is
19 5711, if I can correct you.

20 THE CHAIRMAN: I have 5712.

21 MR. LANDSMAN: I make a motion to
22 approve the request for an area
23 variance subject to conditions, based
24 on facts, findings, information and
25 testimony presented to this Board at

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the public hearing, site visits by members of the Zoning Board and otherwise obtained.

The subject property in question is on the South East corner of Parkview Avenue and Pondfield Road. In making this determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant and/or owner if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

To grant an area variance, the Board must be satisfied on five points of law:

1. Whether undesirable changes will be produced in the neighborhood or a detriment to nearby properties will be created by granting of the area variance.

The Zoning Board has visited the site multiple times and finds there will be no undesirable change in the

1 neighborhood. This is a longstanding
2 mixed-use building made up of retail
3 and medical office space.

4 While parking is limited due to
5 the age of the urban neighborhood,
6 parking at the meters has worked for
7 many decades. The proposed use, an
8 expanded luncheonette, will be
9 replacing a dry cleaner at the site.

10 2. Whether the benefit sought by
11 the applicant or owner can be achieved
12 by some other method feasible for the
13 applicant or owner to pursue other than
14 the area variance. The benefit sought
15 cannot be achieved by any other means.
16 As stated by Mr. Stephen Veneruso,
17 Esq., at the July 21st 2020 hearing,
18 the proposed tenant is short seven
19 spaces to open their business and
20 cannot acquire them anywhere in close
21 proximity to the subject premises.

22 The additional space to the
23 luncheonette would offer the patrons
24 more space to socially distance during
25 their meals.

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3. Whether the requested variance is substantial. The variance is substantial, but for the reasons previously stated, its effect will be minor since the building has existed at the site for many years and other businesses have previously operated there without any adverse consequences on the area.

4. Whether the proposed variance will have an adverse effect on the physical or environmental conditions of the neighborhood or district.

As previously stated, there will be no adverse physical or environmental impact on the neighborhood. Previous retail establishments have operated at the subject premises for many years without adverse impacts in this long time mixed-use urban shopping area.

With the conditions imposed by this Board, this variance will not negatively alter the quality of life in the neighborhood.

5. Whether the alleged difficulty

1 is self-created. The difficulty is
 2 self-created, as the applicants should
 3 have been aware of the zone district
 4 area requirements when it leased the
 5 subject premises, however, this factor
 6 alone does not preclude the Zoning
 7 Board of Appeals from granting this
 8 area variance.

9 The Board imposes the following
 10 conditions:

11 1. All health, safety, fire,
 12 building and environmental codes shall
 13 be adhered to always by the applicant
 14 and/or owner.

15 2. If any sidewalk or curbs
 16 directly surrounding the property are
 17 in need of repair or replacing as per
 18 the City Engineer, then the applicant
 19 and or owner must make repairs or
 20 replacements before the certificate of
 21 completion is issued.

22 3. All taxes and fines, if owed,
 23 must be paid in full 60 days from
 24 today's date.

25 4. These conditions shall be

1 listed on the Certificate of Occupancy
 2 and the applicant and/or tenant shall
 3 permit inspections at the discretion of
 4 the Department of Housing and
 5 Buildings, City of Yonkers, at least
 6 once per year to determine that
 7 conditions are being met.

8 5. Should the applicant and/or
 9 tenant not comply with, breach or
 10 violate any of these conditions at any
 11 time, the variance is hereby rescinded,
 12 and the Zoning Board authorizes the
 13 City of Yonkers, Department of Housing
 14 and Buildings, to take appropriate
 15 action.

16 6. All expenses associated with
 17 these conditions shall be the
 18 responsibility of the applicant.

19 7. Fire, smoke and carbon monoxide
 20 detectors shall be installed and hard
 21 wired throughout the stores and
 22 connected to an outside 24 hour
 23 monitoring system such as ADT.

24 8. Garbage shall be picked up only
 25 during the hours of 8:00 a.m. to 4:30

1 p.m. Monday to Friday only.

2 Thank You.

3 THE CHAIRMAN: Do I have a second
4 on the motion?

5 MR. LOPEZ: Second.

6 THE CHAIRMAN: On the motion, Ms.
7 Kimball.

8 MS. KIMBALL: For the motion.

9 THE CHAIRMAN: Mr. Giorgio.

10 MR. GIORGIO: For the motion.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: Mr. Singh.

14 MR. SINGH: For the motion.

15 THE CHAIRMAN: Mr. Lopez.

16 MR. LOPEZ: For the motion.

17 THE CHAIRMAN: The Chairman votes
18 for the motion, the motion is carried
19 six-zero.

20 We have a few things we have to
21 take up here for a minute, one is 507
22 Central Park Avenue. They sent us a
23 letter and I forgot to put it on last
24 time, I guess. 750 Central Park Avenue
25 is over on the east side of Central

1 Park Avenue just before the Cross
2 County Center. It is in the Cross
3 County Mall. They are looking for a
4 one-year extension. I am going to make
5 a motion. They paid the money, by the
6 way.

7 I am going to make a motion to
8 give them a one-year extension starting
9 on June 29th of this year. Do I have a
10 second?

11 MR. SINGH: Second.

12 THE CHAIRMAN: Everybody in favor
13 say aye.

14 (A chorus of ayes.)

15 THE CHAIRMAN: That is carried.
16 Okay. I have this Notice of Appeal
17 correspondence, 555 Tuckahoe Road.

18 Mr. Natchev, do you want to
19 comment on that, please.

20 MR. NATCHEV: Yes, Mr. Chairman
21 and members, thank you. This is a
22 Notice of Appeal brought by a
23 representative of the homeowners
24 association involving the application
25 before the Planning Board, 555 Tuckahoe

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Road.

The basis of the Notice of Appeal is to review the determination of the Building Commissioner and this Notice of Appeal was only sent through First Class Mail back in late June.

The problem is this Notice of Appeal has yet to be formally filed with the Zoning Board Clerk or have the fee paid for the Board to hear the matter pursuant to the Zoning Ordinance, so until those steps are complied with, the matter will not be placed on the Board's calendar.

THE CHAIRMAN: Thank you, sir. I am going to make a motion to adjourn, do I have a second?

MR. SINGH: Second.

THE CHAIRMAN: Everybody in favor say aye? Thank you.

(Time noted: 5:45 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, HOWARD BRESHIN, a Court Reporter
and Notary Public within and for the State of New
York, do hereby certify:

That I reported the proceedings that
are hereinbefore set forth, and that such
transcript is a true and accurate record of said
proceedings.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



HOWARD BRESHIN,
COURT REPORTER

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