

ZONING BOARD OF APPEALS AGENDA

City of Yonkers

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Yonkers, NY 10701

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MIKE SPANO, Mayor
WILSON KIMBALL, Chairperson

September 13, 2023

*revised

ZONING BOARD OF APPEALS AGENDA

PLEASE TAKE NOTICE:

THE CITY OF YONKERS ZONING BOARD OF APPEALS MEETING SCHEDULED FOR WEDNESDAY, SEPTEMBER 20, 2023 AT 6:00 PM, WILL BE HELD IN YONKERS CITY HALL, 40 SOUTH BROADWAY, 4TH FLOOR (building is handicapped accessible). PLEASE BE SURE TO CHECK OUR WEBSITE FOR INFORMATION AND UPDATES WWW.YONKERSNY.GOV.

OPEN CONTINUED HEARINGS

5790 – Area Variance – James Veneruso, Esq., on behalf of Mehranco Limited Liability Co., owner, on premises known as **1999 Central Park Avenue**, Block: 4385, Lot: 42.43, Zone: BR (B30132) (*Adjourned to Nov. 2023*)

Proposal: to construct a new retail, self-storage building, having:

- *Exceeding maximum permitted height, Section 43-27, Table 43-3 (required 48 ft., proposed 74.5 ft.).*
- *Parking within the minimum front yard not permitted, Section 43-133 (A)1.*
- *Insufficient loading spaces Ref. 43-128, Table 43-5 (required 5, proposed 4).*
- *Insufficient depth of retail space measured from the front of the structure, Ref. 43-36.M.(1) (required 60 ft. minimum, proposed 51.3 ft.).*
- *Parking within 10 ft. of a public right-of-way is not permitted, Ref. 43-134.A.(4). (proposed 2.4 ft.).*
- *Parking within 10 feet of a building on the same lot is not permitted, Reference Yonkers Zoning Ordinance 43-44.A.9.b. (proposed 1.5 ft.).*

5797 – Area Variance – Andrew Romano, Esq., on behalf of Marketin Hila/110 Ravine Realty LLC, owner, on premises known as **110 Ravine Avenue**, Block: 2118, Lot: 39, Zone: A (B29521)

Proposal: for proposed new 8 story, 14 unit apartment building on vacant lot, whereas:

- *Incorrect calculation of permitted building height, Yonkers Zoning Ordinance (YZO) Section 43-27, Table 43-3. (Max. Building Height: 75'-0").*
- *Insufficient side yard, YZO Section 43-27, Table 43-3. (Required: 16'-0", Proposed: 12'-0").*

ZBA Web Page: www.YonkersNY.gov/ZBA

For public comments: <https://yonkers.seamlessdocs.com/f/ZBA Comment>

- Rooftop bulkhead or elevator penthouses shall not exceed 20% of the horizontal area of the roof on which they are located or 10% of the lot area, whichever is lesser, YZO Section 43-33.O.1 (Allowed: 20% , Proposed : 35.6%).
- Rooftop bulkhead or elevator penthouse shall be set back from the edge of the roof at least 1'-0" for each 1'-0" by which features exceed the maximum height specified for the district when located in or adjacent to residence district. (Required: /- 9' for stairs bulkhead and /-15' for elevator bulkhead, Proposed: None on two sides edge of the roof).
- Indicate stairs and elevators bulkhead distance from front and rear edge of roof.
- The total area covered by accessory residential uses and structures must not exceed sixty percent (60%) of the rear yard or sixty percent (60%) of each side yard or a total of seventy-five percent (75%) of rear and side yards when added together, YZO Section 43-40.D.2. (Allowed: 75%, Proposed: 86%).
- Parking within 5 feet of all property lines not permitted, YZO Section 43-44.A.9.b.
- Insufficient parking, YZO Section 43-138. (Reduced parking requirements = 1/DU, Required: 14 spaces, Proposed: 5).
- Required parking aisle width for parking space no. 2 is not provided, YZO Section 43-134.A.12. (Required: 24'-0").
- Concrete sidewalks shall be provided along the perimeter of the building adjoining a driveway or parking area, where entry to the building is located for pedestrian safety, YZO Section 43-121.A.2 and 4.
- Roof area on Lot Coverage Tabulation is not the same value as the roof area used in calculation of total area of bulkhead. Coordinate calculation with the dimensions shown in plans.
- Incorrect calculation of building coverage, YZO Section 43-8.

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5810 – Use & Area Variance

David S. Steinmetz, Esq. & Jacob E. Amir, Esq., on behalf of TCP Realty LLC, owners, on premises known as **143-151 Woodworth Avenue**, Block: 2102, Lots: 4, 5, 11, 39 & 41, Zone: C (B32117)

Proposal: to construct two 32-story residential towers with ground floor commercial space, parking garage, landscaping and other improvements, whereas:

- Proposed use not permitted, Section 43-27, Table 43-1. (proposed: apartment houses).
- Exceeding maximum permitted floor area ratio, Section 43-27, Table 43-3. (required: 6.00, proposed: 13.14).
- Exceeding maximum permitted height, Section 43-27, Table 43-3. (required: 75', proposed: 372').
- Insufficient rear yard, Section 43-27, Table 43-3. (required: 20'0", proposed: 9'2").
- Insufficient parking, Section 43-128, Table 43-4. (required: 944, proposed: 702).

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5812 – Use Variance –

Junisa A. Fondeur, owner, on behalf of herself, on premises known as **61 Sherwood Avenue**, Block: 6381, Lot: 20, Zone: MG (B31054)

Proposal: to create a commercial kitchen for home catering business, whereas:

- Proposed use not permitted, Section 43-27, Table 43-1.

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5818 – Area Variance – William Null, Esq. of Cuddy & Feder LLP, on behalf of UB Tanglewood LLC, owner, on premises known as **2248 aka 2270 Central Park Avenue**, Block: 4800, Lot: 60, Zone: BR (B32155)

Proposal: proposed 2200 SF building pad site with drive-through and associated site improvements, having:

- All parking spaces for the proposed use shall be indicated on site plan.
- Insufficient parking, Section 43-128, Table 43-4 (required 278, proposed 174). 104 Parking space variance required. (Restaurant in planned shopping center 2,200 s.f./200 s.f. = 11 additional parking spaces required. 267 existing + 11 proposed = 278 parking spaces required.)

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5820 – Area Variance – Andrew Romano, Esq., on behalf of Mountain Portfolio Owner NY LLC, owner, on premises known as **380 Riverdale Avenue**, Block: 130, Lot: 1, Zone: BA (B22026)

Proposal: two story structure containing convenience store, whereas:

- Proposed vacuum (accessory structure) not permitted in minimum front yard/side-front yard per 43-42C(1).
- Proposed loading space width as per COY Zoning Code 43-134 B (3). (required 15'-0", proposed 9'-4").
- Proposed loading space length as per COY Zoning Code 43-134 B (3). (required 40'-0", proposed 32'-6").
- Proposed loading space height as per COY Zoning Code 43-134 B (3). (required 14'-0", proposed 11'-6"+/-).
- Insufficient parking, Section 43-128, Table 43-4 (required 13, proposed 8).
- All parking spaces shall be located minimum of 5'-0" from any property line as per COY Zoning Code 43-44 B (5). (required 5'-0", proposed 3'-0").

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5821 – Area Variance – Warren Post, on behalf of AIS LLC, owner, on premises known as **664 Saw Mill River Road**, Block: 3116, Lot: 39, Zone: CM (B31328)

Proposal: gas station underground fuel tank replacement to include new canopy, whereas:

- Insufficient front yard at new canopy. (Required : 20'-0", Provided: 0'-0") (Reference Yonkers Zoning Section 43-27, Table 43-3).
- Insufficient side-front yard at new canopy. (Required : 20'-0", Provided: 12'-0") (Reference Yonkers Zoning Section 43-27, Table 43-3).

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5823 – Area Variance – Zarin & Steinmetz LLP, on behalf of CPD NY Energy Corp, owner, on premises known as **1250 Nepperhan Avenue**, Block: 3182, Lot: 2, Zone: I (B32100)

Proposal: for interior/exterior renovation of existing gas station/convenience store with auto repair bays; eliminating the repair bays and expanding the convenience store, whereas:

- All semipublic open-air parking areas shall be set back a minimum of five feet from any property line in accordance with Section 43-44B(5) of the COY Zoning Code. The proposed parking space located at the East end of the parking row in front of the main building is less than 5 feet for the side lot line. Applicant to submit application to the ZBA to request a variance to Section 43-44B(5) for the parking space located within 5 feet of side lot line.
- All semipublic open-air parking areas shall be set back a minimum of 10 feet from any building on the same lot in accordance with Section 43-44B(5) of the COY Zoning Code. Proposed parking spaces in front of the main building and one proposed parking space on the West side of the building are less than 10 feet from the building. Applicant to submit application to the ZBA to request a variance to Section 43-44B(5) for the parking spaces located within 10 feet of the building on the same lot.
- 90 degree angle parking space require a 24 feet maneuvering aisle in accordance with Section 43-134A(12) of the COY Zoning Code. Two of the proposed parking spaces located at the East end of the parking spaces row in front of the main building have less than 24 feet of maneuvering space within the property boundary and will require maneuvering within the adjacent property. Applicant to obtain approval ZBA approval for a reduction of the required maneuvering or to obtain a permanent easement to be allow to have automobiles maneuvering within the adjacent property.

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5824 – Use & Area Variance –

Eliot Senor, P.E., L.S. & Gabriel E. Senor, P.C., on behalf of Five Sac Self-Storage Corp, owner, & Uhaul Storage of Yonkers II, lessee, on premises known as **167 Saw Mill River Road**, Block: 2183, Lot: 10, Zone: I (B23838)

Proposal: interior renovation for construction of proposed storage bins, whereas:

- Proposed use not permitted, Section 1, Table 43-1 amended general ordinance no. 12-2019. Use variance required.
- All parking spaces shall be located minimum of 5'-0" from any property line and 10 feet from any building on the same lot as per COY Zoning Code 43-44 B (5).
- Alterations to parking area for other than single and two family dwellings requires site plan approval as per COY Zoning Code 43-94.

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5825 – Area Variance –

Stephen Veneruso, Esq., on behalf of Nicholas Griffiths, owner, on premises known as **1 aka 9 Greystone Terrace**, Block: 2136, Lot: 10.16, Zone: S-50 (B19915 Amend)

Proposal: legalize construction of modular masonry retaining wall in rear yard of existing one family dwelling, whereas:

- Rear wall exceeds maximum permitted height of wall in rear yard, per Zoning section 43-41D(3)(a); maximum wall height in rear yard 6 feet, proposed height of fence is 5 feet. Apply to ZBA for 1 foot variance for fence height on top of retaining wall;
- Max fence height in rear yard is 4 feet with accompanying 6 feet retaining wall.

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5826 – Area Variance – Stephen Veneruso, Esq., on behalf of 1270 Saw Mill Associates LLC, owner, on premises known as **1270 Saw Mill River Road**, Block: 3270, Lot: 220, Zone: CM (B32288)

Proposal: construction of a new self-storage facility with office area for operations and parking, whereas:

- *Special Condition #2 of ZBA Case 3341, January 18, 1983, prohibited any structures to be placed on the easement.*
- *Exceeding maximum permitted floor area ratio, Section 43-27, Table 43-3 (required 1.00, proposed 3.47).*
- *Exceeding maximum permitted height, Section 43-27, Table 43-3 (required 35 ft., 2 stories, proposed 89.1 ft., 8 stories).*
- *Parking within the minimum side yard not permitted, Section 43-133 (A).3.*
- *Parking within 5 feet of all property lines not permitted, reference Yonkers Zoning Ordinance 43-44.B.(5).*
- *Parking within 10 feet of a building on the same lot is not permitted, reference Yonkers Zoning Ordinance 43-44.B.(5).*
- *Fences and walls, including retaining walls, must not exceed 4 feet in height in a required front yard setback or in any other required yard setback abutting a street and 6 feet in height within any other required yard setback (reference Yonkers Zoning Ordinance 43-41.D.3.a). Proposed 31 ft. high retaining wall in rear yard.*
- *Notes: Review is based on information provided by architect, in zoning analysis. No calculations were provided.*
- *Zoning schedule specifies that, "purchase of city property" is required for the zoning analysis to be valid. Clarify if city property has been purchased, and indicate on plans, the location of this "city property."*

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5827 – Area Variance – Niall Cain, AIA LEED, on behalf of Christopher DeMatteo, owner, on premises known as **163 Crescent Place**, Block: 5220, Lot: 3, Zone: M (B32765)

Proposal: extension of home to add dining room and a guest/study room, whereas:

- *No building shall encroach within the required setbacks per §43-27 Table 43-3 of the COY Zoning Code. The proposed one story addition is located 6.35 feet away from the rear lot line and is encroaching 18.65 feet within the required 25 feet rear yard setback. Applicant to obtain ZBA approval for a reduction of 18.65 feet of the required rear yard setback.*
- *A deck which is more than three feet in height above the average finished grade of the building to which it is attached shall meet the minimum setback requirements for principal buildings in accordance with §43-41A(2) of the City of Yonkers Zoning Code. The proposed deck is 4.33 feet above grade and shall be setback 25 feet from the rear yard lot line in accordance with §43-27 Table 43-3 of the COY Zoning Code. The proposed deck is located less than 25 feet from the rear lot line. Applicant to obtain ZBA approval to allow the deck to encroach within the required rear yard setback. Design Profession to specify minimum distance of deck to rear lot line.*

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5828 – Area Variance – Andrew Romano, Esq., on behalf of JSJ Lawrence Realty Corp, owner, on premises known as **23 Lawrence Street**, Block: 122, Lot: 32, Zone: A (B30161)

Proposal: convert store to two residential dwelling units, having:

- *Insufficient parking, Section 43-128, Table 43-4 (required 3 spaces, proposed 0 (retail store is non-conforming)).*

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5829 – Area Variance – Andrew Romano, Esq., on behalf of Alba Developers Inc., owner, on premises known as **173 Linden Street**, Block: 477, Lot: 38, Zone: M (B21173)

Proposal: construction of a new ten family apartment house, whereas:

- *No building permit shall be issued for a building or a structure unless it is in conformity with a site plan approved by the Planning Board as per COY Zoning Code 43-94.*
- *Parking is shown 6'-8" /- from front property line where 15'-0" is required. A variance of 8'-4" is required. 43-133(A)3.*
- *Parking is shown 6'-4" /- from side property line where 12'-0" is required. A variance of 5'-8" is required. 43-133(A)3.*
- *Parking is not permitted within 10' of the right of way. (required 10 ft., proposed 5 ft.). 43-134(A)4. A variance of 5'-0" is required.*
- *Exceeding maximum permitted floor area ratio, Section 43-27, Table 43-3 (required 10,241 sf., proposed 12,674 sf.). A variance of 2,433 sq. ft. is required.*
- *The minimum backup area for 90 degree parking is 24'-0" as per 43-134 illustration 32. (required 24'-0", proposed 22'-0"). A variance of 2'-0" is required.*
- *Insufficient side yard, Section 43-27, Table 43-3 (required 12'/25', proposed 6.875'/26.125'). Variances of 5.125' is required.*
- *Insufficient back-up aisle; Section 43-134A(9), (24' required; 22'-0" provided). A 2' variance required.*
- *Insufficient parking, Section 43-128, Table 43-4 (required 11 ps, proposed 7 ps). A 4 parking space variance required.*

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NEW HEARINGS

5830 – Area Variance – Theodore G. Rieper, R.A., on behalf of Yumi Chen, owner, on premises
& Improvement to a Non known as **13 Randolph Street**, Block: 119, Lot: 27, Zone: BR
-Conforming Use (B29946)

Proposal: parking for 2 cars in front yard, curb cut & driveway, whereas:

- *The two proposed parking spaces are 8.5 feet wide by 15.58' long. The required minimum for a parking space is 18 feet in accordance with §43-134A(9) of the City of Yonkers Zoning Code. Owner shall remove the parking spaces or request a variance to §43-134A(9) from the Zoning Board of Appeal (ZBA) for a 2.42' reduction in parking space length.*
- *The two proposed parking space are located in the front yard and there is no garage within the building. Parking shall be located in the side or rear yard in accordance with §43—133A(1). Owner shall remove the parking located in the front yard or shall request a variance to §43-133A(1) from the ZBA to allow the parking spaces to be located in the front yard.*

- *The existing residential one family building is located in a BR zoning district and as such the building is a nonconforming use. Adding parking spaces will constitute an increase of nonconformity and is not permitted in accordance with §43-21B(2) of the City of Yonkers Zoning Code. Owner shall remove the parking spaces or shall request a variance to §43-21B(2) from the ZBA to allow an increase in nonconformity for the new parking spaces.*

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5831 – Area Variance – Andrew Romano, Esq., on behalf of 43 New Ave LLC, owner, on premises known as **44 New Avenue**, Block: 6250, Lot: 51, Zone: M (B32519)

Proposal: construction of a new two family dwelling, having:

- *Insufficient lot area per family, Section 43-27, Table 43-3 (required 2500 sq. ft., proposed 2237.5 sq. ft.).*
- *Insufficient lot area, Section 43-27, Table 43-3 (required 5000 sq. ft., proposed 4500 sq. ft.).*
- *Insufficient parking, Section 43-128, Table 43-4 (required 4 spaces, proposed 3 spaces).*

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5832 – Area Variance – Marisa Kaufman, owner, on behalf of herself, on premises known as **20 aka 16 Wiltshire Place**, Block: 5608, Lot: 6, Zone: S-50 (B29329)

Proposal: to re-locate driveway from side of house to front of house for better drainage, having:

- *Insufficient parking, Section 43-128, Table 43-4 (required 2, proposed 1).*
- *Parking within the minimum front yard is not permitted as per Section 43-133(A)1. The property is located in the ‘S-50’ zoning area. The front existing setback is 30’. Front yard minimum setback is 20’. Parking space to be 8’-6” wide and 18’-0 length, Section 43-134.A.9. Not enough room for parking.*

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5833 –Use Variance – Cuddy & Feder LLP, on behalf of 326 Riverdale Owners LLC, owner, on premises known as **330 Riverdale Avenue**, Block: 157, Lot: 10, Zone: A (B31183)

Proposal: install three antennas and accessory equipment on an existing structure, whereas:

- *Proposed use not permitted, Section 43-27, Table 43-1. (Wireless communication antennas are not listed as permitted use).*

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5834 – Area Variance – James G. Dibbini, Esq., on behalf of Stephen Johnson, owner, on premises known as **444 Park Hill Avenue**, Block: 101, Lot: 73, Zone: T (B32712)

Proposal: legalize new driveway design, whereas:

- *Zoning board approval required. As per Yonkers Zoning Code, section 43-133 A.(1), parking in front yard is not allowed.*

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5835 – Area Variance – Andrew Romano, Esq., on behalf of Jesus Rebutti, owner, on premises known as **39 Spruce Street**, Block: 438, Lot: 24, Zone: M (B31070)

Proposal: construction of two front yard parking spaces, whereas:

- *Article 43-21D of the COY Zoning Code states; “A building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, floor area ratio, off-street parking, loading or similar dimensional requirements of this chapter shall be deemed to be a nonconforming building or nonconforming structure. No permit shall be issued that will result in the increase of any dimensional nonconformity”. Design professional to demonstrate that the proposed parking space will not increase any dimensional nonconformity or apply for a variance to article 43-21D to request increase in dimension nonconformity with exact specifications (i.e. parking space distance from property line to be reduced from 5 feet to 0).*
- *Article 43-44A(9)(b) of the COY Zoning Code states: “all private open-air parking areas accessory to multifamily buildings shall be set back a minimum of five feet from any property line and 10 feet from any residential building on the same lot”. Design professional to show exact location of proposed parking space relative to the property lines and relative to the building. Design professional to show compliance with Article 43-44A(9)(b) of the City of Yonkers zoning code or add notes on the plan specifying required variances to be applied for.*

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5836 – Use & Area Variance – Mastrogiacomo Engineering PC, on behalf of My Main Man LLC, owner, on premises known as **47 High Street aka 102 Park Avenue**, Block: 2167, Lot: 1.3, Zone: MG (B32874)

Proposal: construct a third floor addition for medical offices, whereas:

- *An existing building on a nonconforming lot shall be deemed nonconforming, and no permit shall be issued that will result in the increase of any dimensional nonconformity in accordance with §43-21D. The building owner shall apply for a variance to §43.21D to allow for a permit to be issued for an increase of the building size on a dimensional nonconforming lot.*
- *The proposed third floor addition to the building will increase the building height to 37.52 feet above the average grade. The maximum permitted height for non-residential use buildings in a MG district is 36 feet in accordance with dimensional regulations Table 43-3. Design professional shall revised the plans or owner shall request a variance to the Dimensional Regulations Table 43-3 from the ZBA for a 1.52 foot building height overage.*
- *The proposed third floor addition to the building will encroach in the required 25 feet front yard setback on High Street per Dimensional Regulations Table 43-3. Design professional shall revised the plans or owner to request a variance to the Dimensional Regulations Table 43-3 from the ZBA to allow the proposed third floor to encroach 5.5 feet into the required front yard.*
- *The proposed third floor addition to the building will encroach in the required 25 feet side front yard setback on Park Avenue per Dimensional Regulations Table 43-3. Design professional shall revised the plans or owner to request a variance to the Dimensional Regulations Table 43-3 from the ZBA to allow the proposed third floor to encroach 1.5 feet into the required front yard.*
- *The proposed use stated for the new third floor in the Application for a Building Permit is “Medical Offices”. Medical Establishment is not a permitted use in a MG district per Use*

Regulation Table 43-1 of the City of Yonkers Zoning Code. Owner to request a variance to the Use Regulations Table 43-1 from the ZBA to allow for Medical Establishments to operate on the proposed Third Floor.

- The current use of the building as Medical Establishments is a permitted nonconforming use. The enlargement of a nonconforming use is not permitted in accordance with §43-21B(2) of the COY Zoning Code. Owner to request a variance to §43-21B(2) from the ZBA to allow for an increase in the nonconforming use for the proposed Medical Offices operate on the proposed Third Floor.
- The proposed 3rd floor Medical Offices will cover an estimated area of 2,738 square feet. The Parking Requirements Table 43-4 requires 1 parking space per 200 square feet of Medical Establishment area. No additional parking is being proposed. Design Professional to demonstrate how the 14 required additional parking spaces will be provided or owner to request a variance to the Parking Requirement Table 43-4 from the ZBA to be exempted from providing the required 14 parking spaces.

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5837 – Use & Area Variance – Joseph Fernandez, R.A., on behalf of B & N Apex Corp, owner, on premises known as **1051 Yonkers Avenue**, Block: 6328, Lot: 49.54, Zone: B (B33009)

Proposal: installation of a car wash area and alteration to parking layout, whereas:

- Proposed car wash area is not a permitted use in B District, requires approval from Zoning Board of Appeals (ZBA), (Reference YZO Section 43-27, Table 43-1).
- Insufficient parking, Section 43-128, Table 43-4. (required : 10, proposed : 2).

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OTHER BUSINESS

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#5499	10 Warwick Road	Amend Conditions
#5242	251 Valentine Lane	Extension Request
#4552A	101 North Broadway	Extension Request
#5752	50 Vineyard Avenue	Amend Approval
#5567	18 Trinity Street	Amend Condition
#5713	76 Locust Hill Avenue	Amend Approval
#5799	165 North Broadway	Correct Approval
#5826	1270 Saw Mill River Road	Adjournment Request
#5699	76 Point Street	Extension Request
#5810	143-151 Woodworth Avenue	Announce Scoping Sessions: September 27, 2023 (working session) October 16, 2023 (public session)

*Please be advised that speakers are first come, first served. There will be a sign-in sheet upon arrival and the speaking time will be limited to 2 minutes.