

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

TRANSCRIPT OF THE BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING HELD SEPTEMBER 21, 2020

PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, JOHN MAINELLO III, and PATRICIA CURRAN.

ABSENT was JESSICA CHARETTE.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Chair Clemente: Welcome, everyone. I'm Ann Clemente, Chairperson. The regular meeting of the Brunswick Zoning Board of Appeals for Monday, September 21, 2020 is called to order. At this time please join me in reciting the Pledge of Allegiance.

[Pledge recited]

Chair Clemente: Mr. Poletto, would you kindly explain the procedure for using the Zoom platform for tonight's meeting?

Pat Poletto: As per Governor Andrew Cuomo's Executive Orders, we are authorized to hold our regular meetings over the internet, such as Zoom. So to facilitate that things run smoothly and with as little technological issue as possible, we are asking for the following: when not speaking, please mute your audio, I've gone through and muted those of you who had background noise going and didn't have yours muted so when you go to speak make sure you unmute yourself; when you do speak, please state your name because we have to do a transcript of this meeting and it's easier for the person doing the transcript to know who is talking. So please state your name and during the public hearing you will need to state your name and address. You are encouraged to use headphones, in particular headphones with a microphone so that there is no feedback loop created. And if there are two or more of you in the same room watching the meeting on different devices, make sure only one person's audio is on. Otherwise we get terrible feedback and it's tough to do the transcripts from there. So that's my thing. Remember the biggest part is state your name before you start talking and during the public hearing you have to state your name and address. Back to you, Chairman.

Chair Clemente: Thank you very much, Mr. Poletto. Mr. Golden, would you kindly call roll attendance of the Zoning Board members?

Chuck Golden: Attendance for the Zoning Board meeting on Monday the 21st of September in the year 2020. Member Curran?

Member Curran: Here.

Chuck Golden: Member Schmidt?

Member Schmidt: Here.

Chuck Golden: Member Mainello? I see Member Mainello, I just don't hear him. Member Charette has previously been announced as absent for tonight's meeting.

John Mainello: I'm here, Chuck, if you can hear me.

Chuck Golden: I can hear you, John. And Chair Clemente?

Chair Clemente: Here. Thank you Chuck. The Board acknowledges the challenging endeavor of transcribing the Zoning Board minutes. When the transcriptions of the previous meeting are available, they will be reviewed and approved by the Board at a subsequent meeting. Let's review the agenda as posted on the Town website. There are five public hearings. 136 Mountain View Avenue, area variances. 11 Riccardi Lane, area variances. 30 Killock Avenue, area variance. 42 Humiston Avenue, area variances. 720 Hoosick Road, sign variance. For everyone's information, 793 Pawling Avenue is not on tonight's agenda. The application is delayed until the Zoning Board's meeting on October 19, 2020. The applicant is awaiting an engineer's report. Also, Blue Sky Towers III is not on tonight's agenda. The application will be on the October agenda on October 19, 2020. After old business tonight, the Board will review six new business applications. 394 Pinewoods Avenue, 29 Norfolk Street, 1 Seneca Street, 29 Killock Avenue, and lastly with two applications, 660 Hoosick Road. The first item of business on the agenda is 136 Mountain View Avenue. Marilyn Bauer, area variances. The Board will open the public hearing on this application. Attorney Gilchrist, would you kindly read the public hearing notice?

Attorney Gilchrist: Yes. Notice is hereby given that that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Brunswick at 6:00 p.m. on Monday, September 21, 2020 concerning the application for area variance submitted by Marilyn Bauer for property located at 136 Mountain View Avenue. Applicant seeks approval to add a deck onto an existing nonconforming house at this location, requiring front yard setback variances from Mountain View Avenue and Sanford Avenue, as well as a side yard setback variance. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the September 21, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the September 21 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site.

Chair Clemente: Thank you, Attorney Gilchrist. And please note that the applicant has provided to the Building Department a revised survey drawing of the proposed site with the correct names of the adjacent streets, in particular Sanford Avenue. The document is on file with the Building Department and available for review during normal business hours. Marilyn Bauer, are there any changes or additions to the application materials?

Marilyn Bauer: No there are no changes.

Chair Clemente: Thank you. Marilyn Bauer, would you kindly present a brief overview of the project?

Marilyn Bauer: I don't really know what you want.

Chair Clemente: If you could just kindly tell the Board members what you hope to achieve by requesting these area variances and which area variances you're requesting.

Marilyn Bauer: A variance so we can build a deck in the backyard.

Chair Clemente: Thank you very much. The Zoning Board will open the floor for receipt of public comment. If anyone would like to speak for this application or against, you're welcome to do so now. Chuck, are there any written comments on this application that could be read by the Board into the record?

Chuck Golden: We have received no written comments on this application.

Chair Clemente: Thank you. Are there any questions from the Zoning Board members? Hearing no public comment, the Chair offers a motion to close the public hearing. Would a member second?

Member Curran: I'll second.

Chair Clemente: Thank you, Member Curran. We'll do a roll call vote to close the public hearing. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: And Chair Clemente, aye. Public hearing is closed. The Zoning Board members are prepared to deliberate and act on this application. As a residential application seeking an area variance, it's a Type 2 action under the State Environmental Quality Review Act. No further SEQRA determination is required. The Zoning Board members will review the factors for consideration of an area variance. The discussion of the factors creates a record for the basis of the decision by the Zoning Board. We're first asked to explain how no undesirable change will be produced in the character of the neighborhood nor a detriment to nearby properties created by granting the area variance. I'll just offer up that this is a situation where the proposed project is in line with the zoning laws and it's the primary structure, the house, which does not meet the setbacks, so it's pre-existing nonconforming structure which fits into the character of this residential

neighborhood as many of the houses were built before the current zoning laws. Next we're asked to explain why the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variances.

Member Curran: As Ann stated previously, it's the main structure that's nonconforming and this is really the only area on the property where you could put the deck, so there isn't any other way and no other place where they could put it and not need a variance.

Chair Clemente: Thank you, Member Curran. Then we are asked to explain whether this requested area variance is substantial. I would offer that the nonconformity of what is being proposed is not too great, as compared to the lawful dimensions allowed by the Zoning Law. Again, the primary structure is a pre-existing nonconformity. We're also asked to explain how the proposed area variances will not have an adverse effect on the physical or environmental conditions of the neighborhood or district. I would just restate what the applicant wrote in her application. The house has been there since 1952 and other areas in that neighborhood also have decks, some are to this size and structure as well. Then we're asked to explain whether the difficulty is self-created. I would say sure, however the owner may not have predicted the building of this deck at the time of the purchase and then noting again that the proposed deck is within the setbacks.

Attorney Gilchrist: Chair Clemente, if I could just add. This is another one of the applications where because of the new zoning law adopted in 2017, the house location becomes nonconforming because of the setbacks in the 2017 Zoning Law. There is the general prohibition in the 2017 Zoning Law on expanding or altering a nonconforming use that generally is prohibited. And when these types of applications are filed to either put a physical addition on the home or add a deck or an accessory structure, this gives rise to the area variance. So in that respect, it should be considered whether or not the need for the variance is self-created. It really does relate to and is tied to the new 2017 Zoning Law.

Chair Clemente: Thank you for that input Attorney Gilchrist. So if there's no other further deliberation, we'll consider the balance between the benefit to the applicant as weighed against any detriment to the community at large and the neighborhood in particular. Would a member make a motion to grant, grant with conditions, or deny the requested area variances? And there are three variances because it's on a corner lot, there are two front yard setbacks and a side yard setback.

Member Schmidt: I'll make a motion to approve the variances.

Chair Clemente: Thank you. Would another member offer a second?

Member Curran: I second the motion.

Chair Clemente: All in favor, we'll do a roll call vote. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: And Chair Clemente, aye. With that motion, the three area variances are granted. The two front yards and the one side yard. Marilyn Bauer, please continue to coordinate with the Building Department on this project. Thank you very much.

Marilyn Bauer: Thanks for all your help.

Chair Clemente: Have a good night. OK the next item of business on the agenda is the 11 Riccardi Lane area variance. We'll open the public hearing on this application. Attorney Gilchrist, would you kindly read the public hearing notice?

Attorney Gilchrist: Notice of public hearing. Notice is hereby given that that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Brunswick at 6:15 p.m. on Monday, September 21, 2020 concerning the application for area variances submitted by Travis Wagner for property located at 11 Riccardi Lane. Applicant seeks approval to add a garage at this location, requiring a front yard setback variance as well as a size variance for accessory structure. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the September 21, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the September 21 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. Again, this was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site.

Chair Clemente: Thank you, Attorney Gilchrist. So we have Travis Wagner. I believe that there are changes that were made to the application materials. Could you kindly present an overview of the project? And please include those changes.

Travis Wagner: I hope to build an accessory building as a garage next to my home. The changes made were, after further review, initially I had pushed it back toward the back property line and I had a contractor come and we discussed that we are too close to the bank. So unfortunately I had to move it closer to the road than originally planned. And the lean-to I changed the size of a little bit also. Those were the two changes I made since the one you're looking at currently.

Chair Clemente: OK thank you. I'll just go over those changes again. So the first change is to the size of the project. Zoning allows 1,500 square feet. It's proposed to be 2,500 square feet. The applicant is requesting 1,000-foot variance. That's the first. The second is a front setback. What is allowed is 75 feet, the applicant is requesting 55 feet, making a 20 foot variance. And then the third that was not in the first original application is that the accessory structure is in front of the primary structure on this property. I believe by 7 feet. So there are three area variances requested tonight at 11 Riccardi Lane. The Zoning Board will open the floor for receipt of public comments. If anyone would like to speak for this application or against, you're welcome to do so now.

Attorney Gilchrist: Chairperson, and I don't want to raise a problem but I do need to highlight an issue. Given the amendment to the application, there has not been a notice of public hearing regarding the requested variance of placing the accessory structure in front of the primary structure by 7 feet. I don't know when the amendment to the application was made, but that was not in the notice of public hearing that was dated September 8 and we do have an issue on the record regarding the adequacy of the notice for that part of the application. You certainly can hold the public hearing regarding the two variances that were noticed. The front yard setback variance and the size variance for the accessory structure, but there has not been a notice of public hearing for the location of accessory structure in front of the primary structure on the lot.

Chair Clemente: Thank you for that, Attorney Gilchrist. I would just like a confirmation from the Building Department. Chuck Golden is that correct, there is a third variance that's being sought and that is the accessory structure being in front of the primary structure by 7 feet?

Chuck Golden: That is correct. The front setback being moved up made it so that the secondary structure would be ahead of the principle structure on the property at that point.

Chair Clemente: Thank you, Chuck. I appreciate that input. So I guess I would ask for feedback from the Zoning Board members. We have options. We could address the two area variances that were noticed and then hold over or have another public hearing re-noticed and have another public hearing on the third area variance. Then of course the option would be to address all three variances at one time at one public hearing and that would have to be in October. So I'd like input from the Zoning Board members on a way to go.

Member Schmidt: I feel like we should address all three at once in one meeting. On the other hand, if somebody is at the public hearing and wants to speak tonight, could we open the public hearing for the two and then hold it open for the next meeting?

Attorney Gilchrist: Yes you could do that. You always have the option of opening the public hearing and keeping it open and continuing that portion of the public hearing at your next meeting. That is an option for you as well.

Chair Clemente: So Zoning Board members, we heard Member Schmidt's offering. It sounds like a reasonable one. Are there any other comments?

Member Mainello: I have a question. So I'm seeing on the drawing here he's got it listed as 70 feet from the road. And the house is 60. So was that a change?

Chuck Golden: To answer that question, yes. What you have up there is not the correct print. It's the previous print prior to the change. And the applicant, Mr. Wagner, can confirm that.

Member Mainello: If he wanted to stay at the 70 feet, Chuck, would he have to do a variance or would he be ok with that then?

Chuck Golden: He would be ok with that.

Member Mainello: Thank you.

Chuck Golden: But unfortunately, when he was on the site with his excavator, they decided to push it forward because of that drop-off. I'm looking in my email now for the other application. The changes were made, and Mr. Wagner can confirm this, not long after the last meeting.

Travis Wagner: Yeah it was probably two days after the last meeting.

Chuck Golden: So the changes were made, the members were notified and I guess that notification did not make it to the folks who make out the notices.

Chair Clemente: OK right. So the Zoning Board members were notified of the changes. However, not the third requested area variance for the accessory in front of the primary. We have opened our public hearing. Member Schmidt offered that we continue though he would like to see all three variances taken on at the same meeting. He did suggest that we take on the first two, which would be for the size and the front setback, and then at the October meeting take on the accessory structure variance. So that's what's in front of us right now. That's what's open for receipt of public comment right now. There's no other discussion then, perhaps we can go ahead and do it in that direction. There was a question by Member Mainello that was answered. Are there any other questions at this time? OK then I would ask the Building Department if there have been any written comments received on this application.

Chuck Golden: The answer is no, there have been no written comments. This should be everything that the members had received and this shows, I don't know where I am and if you can see this or not, but this shows the front setback to be 55 feet which was the house being 60 and by extrapolating the lines out because they are both not perfectly parallel, it came up with a 7-foot in front of everybody else. All you members, can you just confirm that you did receive this? This should have been in the latest package, not the other ones. Because the disconnect is from when we receive changes and the manner in which they're posted I think.

Chair Clemente: I did receive that via email.

Member Curran: I also received it.

Member Schmidt: I didn't receive it.

Member Mainello: I didn't receive it, but I see it there Chuck.

Chair Clemente: So, um, there have been changes that have been noted by the applicant, noted by the Building Department, half of the Zoning Board members have received the changes prior to the meeting, half have not. Would you like to go forward and take on the first two variances, which would be the size and the front with the new numbers, or would you like to take on all three requested variances in the October meeting? This is posed to the Zoning Board members.

Member Curran: The applicant can't move forward with the project until all three are approved, so it might be better to just wait until we can address all three. That's just my opinion.

Member Schmidt: I already stated, I think that's the way to go.

Member Mainello: I agree.

Chair Clemente: I appreciate your input and that's how we'll go forward. So this application at 11 Riccardi Lane will be re-noticed with the three area variances that are being requested by the applicant. So just to state again and to have a confirmation by the Building Department and the applicant so we all have the same values. The size proposed is 2,500 square feet and that is the size of the total project. Again, 1,500 square feet is allowed by the Zoning Law, so 1,000 would be requested. And the second is the front setback. Allowed is 75 feet, and the proposed is 55 feet, making a 20-foot variance. Lastly, the accessory structure is proposed to be placed in front of the primary structure on this property and that is 7 feet. So if I can kindly get a confirmation from the Building Department that those values are correct and by the applicant, and we'll move forward with this application as it's going to be re-noticed for a public hearing for the October meeting.

Chuck Golden: That is correct. Those numbers are correct.

Chair Clemente: Thank you. Are there any questions or comments by the applicant, Mr. Wagner, at this time?

Travis Wagner: There are no questions.

Chair Clemente: OK thank you very much. So this will be put on as the first application of old business at the October 19, 2020 meeting at 6:00pm.

[**unknown speaker**]: We're going to close the public hearing or leave it open?

Chair Clemente: Thank you.

Attorney Gilchrist: My suggestion would be to keep the public hearing open and that the notice for the October meeting will state that the public hearing on the size of the accessory structure will be continued and a public hearing will be opened on the accessory structure located in front of the primary structure on the lot.

Chair Clemente: Thank you for that input. We'll take that into consideration and we'll have the public hearing continued for the first two variances and open the public hearing for the third. Thank you. So there will be no need to close any public hearing at this meeting. Any questions on this at this time? Thank you and we'll move on. OK, our third item for business on the agenda is 30 Killock Avenue, are variance. We will open a public hearing on this application. Attorney Gilchrist would you kindly read the public hearing notice?

Attorney Gilchrist: Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Brunswick at 6:30 p.m. on Monday, September 21, 2020 concerning the application for area variance submitted by Adam Coonrad for property located at 30 Killock Avenue. Applicant seeks approval to add a shed at this location, requiring a front yard setback variance. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the September 21, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the September 21 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy

Record, placed on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site.

Chair Clemente: Thank you, Attorney Gilchrist. Adam Coonrad, are there any changes or additions to the application materials?

Adam Coonrad: No.

Chair Clemente: Could you kindly present a brief overview of the project?

Adam Coonrad: Absolutely. We are looking to get a 12x20 shed. Maybe pre-built, maybe built on site, we're not sure yet, right next to our house. For a couple of different reasons, a little more space, lots of yard toys, so on and so forth. So, I've spoken with my neighbors, everyone seems to be on board and no one has any problems. It's going to be aesthetically pleasing so that's about it.

Chair Clemente: Thanks for that. Thanks to Pat Poletto for highlighting the area in question. The Zoning Board will open the floor for receipt of public comment. If anyone would like to speak for or against this application, you're welcome to do so now. Are there any written comments on this application that can be read into the record by the Board? Are there any questions from the Zoning Board members?

Member Curran: I have none.

Member Mainello: I just had one question. On the Town listing it says it's a 12x24. But you're only doing a 12x20, right Adam?

Adam Coonrad: I'm sorry can you repeat the question please?

Member Mainello: On the Town's letterhead, the notice said it was a 12x24, but you're doing a 12x20 correct?

Adam Coonrad: 12x20, yes.

Chair Clemente: Right. OK. Hearing no public comment, the Chair offers a motion to close the public hearing. Would a member second?

Member Schmidt: I'll second.

Chair Clemente: Thank you, Member Schmidt. All in favor for closing the public hearing? We'll do a roll call vote. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. The public hearing is closed. The Zoning Board members are prepared to deliberate and act on the application. As a residential application seeking an area variance, it's a Type 2 action under the State Environmental Quality Review Act. No further SEQRA determination is required. The Zoning Board members will review the factors for consideration of an area variance. The discussion of the factors creates a record for the basis of a decision by the Zoning Board. We are asked to explain how no undesirable change will be produced in the character of the neighborhood nor detriment to nearby properties by granting the area variance. And just to restate the requested area variance, it's a front setback where 60 feet is required and proposed is 8 feet. I would just offer that sheds are used to store outdoor equipment, yard items, and that's characteristic in this neighborhood. Other properties on that street also have storage sheds. It will be a positive visual impact to the organization and containing of the applicant's belongings. Then we're asked to explain why the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variance.

Member Schmidt: The lot is small so it would be tough to build almost any shed without a variance, but I question if the shed was a little smaller could he get by with a smaller variance. I ask that to the applicant.

Adam Coonrad: If the shed was smaller, could I get by with a smaller variance? I'm not sure I understand the question, sir.

Member Schmidt: Can you get by with a smaller shed? Then you would need a smaller area variance.

Adam Coonrad: I mean, we're shooting for the stars. This is what we desire because we do have a lot of outside stuff and we do spend an enormous amount of time outside. We also have the ATVs and a lawnmower, so I mean I could but I really would rather not because it would probably defeat the purpose in my opinion, sir.

Member Schmidt: OK, thank you.

Ann Clemente: And, to the applicant, is there a reason why it's on the right side of the house as opposed to being located on the left side of the house?

Adam Coonrad: Yeah on the left side of the house we have a tree that still remains. We also have a flag pole and my septic system, my grinder pump and all that is over there. And I don't really want to hinder what's there. Plus it's closer to the house itself. So when my wife is out with the children during the day and what not, she can keep everybody and everything on this side of the house and she doesn't have to monitor the entire yard. Because you can't see the left side of the house from the right, because the house and the pool and the deck and the garage are in the way.

Chair Clemente: Thank you for that. Then we're asked to describe whether the requested area variance is substantial. Again, the area variance is an 8-foot setback where 60 feet is required. And I would offer this it is substantial. Then we're asked to explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions of the neighborhood or district.

Adam Coonrad: I'm sorry, are you asking me these questions?

Chair Clemente: Thank you, no these are factors that the Board will consider in making their determination. Thank you I'm glad we got that cleared up.

Adam Coonrad: My apologies.

Chair Clemente: No problem.

Member Schmidt: I don't believe there will be an adverse effect on the neighborhood, there are other sheds in the area.

Chair Clemente: I would agree. I don't think there would be a potential impact on such factors as the traffic circulation, water drainage, I would agree with that. And then lastly, we're to explain whether the difficulty is self-created. This consideration is relevant but shall not necessarily preclude the granting of the area variance. I would say sure, the choice is made by the applicant. He explained the reasons why he would want the shed at that location, and it's best for him and his family. Are there any other further deliberations by the Zoning Board members? Then, after considering the balance between the benefit to the applicant as weighed against any detriment to the community at large or the neighborhood in particular, would a member make a motion to grant, grant with conditions, or deny the requested area variance?

Member Mainello: I'll make a motion to grant the variance.

Chair Clemente: Thank you. Would a member second?

Member Curran: I'll second.

Chair Clemente: Thank you, Member Curran. We'll do a roll call vote to see if we're all in favor of the vote. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. We will grant the area variance which is for the front yard setback. Just asking Mr. Coonrad to continue your cooperation with the Building Department on this project.

Adam Coonrad: Always.

Chair Clemente: Thank you very much. Have a good night.

Adam Coonrad: So what's the next step I need to make, Chuck?

Chuck Golden: You have your application with us. I guess you have to make the decision if you're building it yourself and if you do, I'll need a set of plans, and if not I need a set of plans and spec sheet if you're planning on buying one outright.

Adam Coonrad: Thank you very much. You guys have a great evening and I really appreciate your time.

Chair Clemente: Thank you. Alright. Our next item of business on the agenda is 42 Humiston Avenue. We will open a public hearing on this application. Attorney Gilchrist, will you kindly read the notice of public hearing?

Attorney Gilchrist: Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Brunswick at 6:45 p.m. on Monday, September 21, 2020 concerning the application for area variance submitted by Van Phung and Denise Breen for property located at 42 Humiston Avenue. Applicant seeks approval to construct a garage which requires a variance for building size as well as building height for an accessory structure at this location. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the September 21, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the September 21 remote Zoning Board of Appeals meeting, as well as copies of the area variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy Record, placed on the Town signboard, posted on the Town website and mailed to owners of all properties located with 300 feet of the project site.

Chair Clemente: Thank you, Attorney Gilchrist. Denise Breen, are there any changes or additions to the application materials?

Denise Breen: No there have been no changes.

Chair Clemente: Thank you. Would you kindly present a brief overview of the project?

Denise Breen: We're looking to build a garage that we have previously gotten the area variance for and we're looking to change the plans to add six feet of height to the building this time around.

Chair Clemente: And then just to confirm with the applicant and perhaps Attorney Gilchrist. So with the additional height, that will then increase the size and that's why the two area variances are being sought at this time?

Attorney Gilchrist: Yes, there is a height issue that requires address through the variance process as well as this does increase the overall square footage of the building.

Chair Clemente: Thank you for that. The Zoning Board will open the floor for receipt of public comment. If anyone would like to speak for the application or against, you're welcome to do so.

Antoinette Mazzariello: Can you hear me? 50 Humiston Avenue. I know he's going for the 6 feet of height but I have again some serious concerns with the layout of the land and the proper drainage on this building. It's a very mammoth building. The garage [inaudible] and I want to know they're doing the proper solar panel and everything they need to do. My concern is that when they pour the foundation, that is a lot of wet land they have to pump water back, and the proper drainage needs to be properly done on that land because I do not want any water coming into my property. I just want to make sure of that. If I remember correct the last hearing, the lawyer Mr. Gilchrist made it very noted that the proper storm drainage was going to be in place. And I don't see none of that right now, so the layout of the land it's a pitching right now that goes right into my property.

Chair Clemente: Thank you for your comments. Mr. Golden or Mr. Gilchrist, would you like to address any of the comments that have been brought up by the neighbor at this time?

Chuck Golden: What has happened on the site is that the foundation has been put in with a 4-foot frost wall and the foundation has been backfilled and it has been graded away from the building, a rough grade. And with that said, I did not see any alteration where there is going to be a lot of sheet drainage from that building area over onto the other property. Just re-pitching the small section where you have the 15 feet on the right side, grading that is away from the building slightly. That's what I saw on-site the last time I was there.

Attorney Gilchrist: Chair Clemente, on the prior variance, if memory serves me correctly, there was a condition that all required stormwater drainage be addressed so that there was not off-site drainage impacting neighboring properties. That condition remains on the existing variance. That would be a compliance issue in the event that the Building Department does inspect that property and finds there's drainage going off the property. I will note for the record too that the two requested variances tonight do not increase the surface area of the roof, will not I would presume with confirmation from the Building Department, result in any increased runoff from the building or structure itself. The variances sought merely increase the height of the building. But I will note again for the record that any prior conditions attached to the grant of a variance still remain in place.

Chuck Golden: This is Chuck from the Building Department and Attorney Gilchrist is correct with that. The footprint is not changing, it's just the height. I have a question for Mr. Phung regarding the day lighting of that foundation drain. You did day light that down, because we spoke about that previously, down closer to Humiston, is that correct?

Van Phung: Yes, that's correct. We do have a culvert pipe that directs water to daylight. I promise there will not be any water running over to our neighbor's property.

Chair Clemente: And just to clarify, you can promise that because you've laid down adequate drainage around the existing foundation, is that correct?

Van Phung: Yes. As far as the property line, that side with the neighbors, there will be a swale on my property to catch all the runoff from her property and direct it toward the culvert pipe and away from the property.

Antoinette Mazzariello: May I speak again?

Chair Clemente: Yes, you may.

Antoinette Mazzariello: I just want to make sure, again, that we have the proper...like I said...this is a mammoth building, it's not a shed. I know we all have sheds. It's a huge, going to be a beautiful garage. I just want to make sure that right now I do not see, and I only saw that one small culvert pipe, that it's coming from the garage from the driveway into his land and doesn't have an escape, so where is that water going to go? So I'm trying to confirm and we want to make sure that I do not have any water problems. Not for him and not for me.

Chuck Golden: Are you describing, ma'am, the culvert pipes that are going under the driveway? Is that what you're describing?

Antoinette Mazzariello: That's what I see. That's the only problem that I see is the drainage right now.

Chuck Golden: The driveway area was built up considerably and I believe there were three culverts. Mr. Phung can confirm that but I believe there were three culverts placed underneath the driveway in that area just to allow flow across that. It is a very wet area with a very high water table down there. The frost wall was only going in four feet and we've had a very dry season and there was still quite a bit of water percolating up into that area. Everything just seems to drain right down through there. So with that said in raising a driveway up, the culvert pipe will allow for the natural flow across that driveway.

Van Phung: Yes, Mr. Golden, there are three culvert pipes that converge to direct the water to go under the street. As far as on the property line with our neighbor. I just want to make everybody aware that the work is not finished yet. We have not had a chance to put in the swale yet. Maybe that's why she hasn't seen anything yet. Because the site work has not been completed yet. There is still more work to be done as far as managing the water. We do plan on putting a swale on my property between our yard and hers to keep the water from going over to her side.

Antoinette Mazzariello: I just want to make sure, I do not see anything in writing from Mr. Phung. I just want to make sure that you don't have any issue and I'm not going to have any issue with water. I know the work is not done, but the proper planning needs to make sure that there is a planning system in place for water.

Chuck Golden: It sounds like the plan is when they get to final grade they will place a swale in there along what would be...I don't know the application says...as you look from the road on the right side of the building down into the roadway and then across the culvert that crosses Humiston Avenue.

Van Phung: Yes that is correct.

Chair Clemente: Mr. Golden, you will monitor the construction site as it progresses if the area variances are requested and then at the completion of the project you also do an inspection to check on the drainage to see how it's flowing?

Chuck Golden: That is correct, Chair Clemente. We will do that together with the MS4 coordinator, Mr. Bill Bradley who is in charge of the SWPPP stuff and drainage. So we have

conversed about this site prior to this even going in knowing the conditions on the site are very wet. So he is fully aware of it as well as I am and we will certainly keep a check on this yes.

Chair Clemente: Thank you for that. Are there any questions from the Zoning Board members?

Member Curran: I have a couple of questions. There's going to be a loft area in the building. Is that correct?

Denise Breen: Yes there is.

Member Curran: Because I was just...on the plans it's showing the two different doors and I know the reason that you put on your application to request the height change was that you won't be able to work on the air conditioning unit on the top of the RV, is that correct?

Van Phung: Yes, that's right. To work on the roof of the camper.

Member Curran: I'm just wondering if you've looked at the option of, because only one side of the building is going to have the loft, it's not really clear to me.

Denise Breen: I believe one side of the building has the loft only because of the shape of the roof, which we planned that way because of the necessity of the solar panels and the area that we needed for that. So it's an unconventional shape because of that. We're really building it to facilitate the solar panels as best as possible. So yes that's why the loft is only on the one side, because that's the only way it really makes sense with the shape of the roof.

Member Curran: So then what is the height of the ceiling on both sides then? I mean I guess it's not clear to me why you would need the request for the additional height if the loft is going to be on the one side that's higher, I don't know...the RV isn't that tall.

Van Phung: I believe that there may not be enough room, width wise, on the other side where the loft is not. I don't have the exact measurement as far as how much head room there is on the other side but we are playing it safe and want to make sure that we don't have an oversight and have to go back and correct it after the building has been constructed.

Member Curran: OK because I did a little research on the internet just looking to see if I could find the size and the height of the airstream RVs and it looked like what I was finding out there was a height that the airstream was only about ten feet tall. So that's why I'm confused as to what the height will be inside and why you need the additional six feet.

Van Phung: At this point the variance is for working on the roof of the RV, of the camper, but really this RV is very old and we may have to actually separate the upper body from the bottom frame and lift the whole thing up to work on the frame itself. I'm not sure. So I just want to make sure that we have plenty of room if we do come to that point because this RV I believe is 1954. So a huge amount of work may need to be done to the frame itself but I cannot tell for sure and I want to make sure that we are not short-changing ourselves and unable to do that later.

Member Curran: OK.

Antoinette Mazzariello: May I speak again?

Chair Clemente: The public hearing is still open, yes.

Antoinette Mazzariello: In reference to Ms. Curran's question, I think your height in the original plan was to 10 feet from the garage and from the loft it's 8 feet, so you are increasing the bottom garage. How big are you increasing the garage? The height of the garage from the first floor? I think that's probably better way. Because I know the total feet from the garage was 23.5 and now you're going up to 29.5. So is the first floor the one that you're increasing the height? Because Ms. Curran I think is right about the height of the airstreams. So maybe you can, I don't know, I just want to make sure. Your original plan, you were at 23.5 which inside was a 10.9 feet bottom floor with a loft height at 8.1 feet.

Van Phung: Mrs. Mazzariello, yes the increase of 6 feet is for the ground garage level. Because the airstream is about 10 feet, it would fit it in right now at the previous variance but I would not be able to do anything with it on top or lift the body itself to do a repair. So the request for the 6 feet is for the garage level. I hope I have explained that properly.

Chair Clemente: Member Curran, perhaps while you're going through your notes I can just maybe recap a little bit. So back in July, the applicant received a variance for 23.5 feet for the building height, noting that the Zoning Law is for a maximum of 20 feet. The applicant is coming back to request an additional variance to go up to 29.5 feet. I have a question for the Building Department. What would then be the total size of the building? That's the second variance that's being requested. What do those values look like?

Chuck Golden: I am going to look into that now. I'm on the building sections portion of the drawing package and your question again please, Chair Clemente? Could you ask it again please?

Chair Clemente: Certainly. So what is the total amount of square footage that the proposed 6 feet in height would add to the building?

Chuck Golden: That's a good calculation there considering the salt box roof. Let me run some numbers on this. Just to clarify, we are looking for interior numbers. You want to know what the area is inside the building now?

Chair Clemente: So, there are two area variances being requested on this application. One that we've been discussing is the building's height. The second is the building size.

Chuck Golden: The building size has not changed as far as square footage. It is still 60 by 32. So the area inside of the building changes when you are raising the height. We are calculating internal square foot area is what I'm asking.

Chair Clemente: Yes.

Chuck Golden: Do we have zoning laws for interior area?

Chair Clemente: So my question goes back to the notice. Where the applicant is seeking the variance for the building size as well as the building height.

Chuck Golden: I didn't write that notice. I would say that the change was building height. The building size, we don't take internal measurements, we always do the footprint of the building. And that hasn't changed. The height has changed but not the area that it takes up. The internal area, yes of course when you increase the height by 6 feet you'll have an increase in internal area.

Chair Clemente: OK.

Chuck Golden: I can do a cubic foot area.

Attorney Gilchrist: If it's the determination of the Building Department that the building size for purposes of zoning compliance has not changed by increasing the height, then that's determinative. And even though the notice did indicate building size, if that's been deemed not required, there's not legal error associated with that. The notice sent for building height, that portion of the application can move forward.

Chair Clemente: Thank you for that clarification Attorney Gilchrist. Are there any other questions, discussions by the Zoning Board members at this time?

Member Mainello: I had one question. Do either Chuck in the Building Department or to the homeowner there, are you going to be installing gutters on the building on both sides? And if you do, are you going to terminate those into the drainage pipe that we were talking about earlier that will go into the culvert?

Van Phung: Yes, we do plan on installing gutters. And they will be terminating into the swale which would direct the water to proper drainage away from the property and under Humiston and into the other area away.

Member Mainello: Thank you.

Chuck Golden: I don't like to see gutter lines tied in with footing drains. Only if you're trying to get the water away from the footings, there's no sense in dumping water from the roof back down there. And I do believe Mr. Phung is going to do this, but he runs a separate line out with just gutter water. And daylight that into the swale would probably be your closest point to daylight.

Van Phung: Yes, Mr. Golden, we will do that as you said. Yes.

Chair Clemente: I appreciate the discussion on the drainage and how the water will be directed away from the building and that would probably be appropriate despite the height of the building that this would need to be done. My concern is that for a temporary reason like the maintenance of a trailer it would be a permanent solution by increasing the size of the height of the building requesting this variance. So I don't know if the applicant would want to speak to that. So we're seeking a permanent solution for a temporary reason.

Van Phung: I believe this is a permanent solution for anything that could possibly come up in the future. This solution would help us meet it.

Denise Breen: I think it would also allow for anybody who may purchase the house in the future to have some flexibility for this to be the kind of height if anyone had a camper to be able to utilize this garage for storing that.

Chair Clemente: Thank you for your comments. Are there any more questions at this time from the Zoning Board members? Hearing no further public comments, the Chair offers a motion to close the public hearing. Would a member second?

Member Mainello: I second.

Chair Clemente: Thank you. All in favor, a roll call vote for the closing of the public hearing.
Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. Public hearing closed. The Zoning Board members are prepared to deliberate and act on the application. As a residential application seeking area variance, it's a Type 2 action under the State Environmental Quality Review Act. No SEQRA determination is required. The Zoning Board members will review the factors for consideration of an area variance. A discussion of the factors creates a record for the basis of a decision by the Zoning Board. We're asked to explain how no undesirable change will be produced in the character of the neighborhood, nor a detriment to nearby properties created by granting the area variance. And just to note, recap, this whole project was before the Zoning Board in July and it's again in front of us for the height increase to 29.5 feet.

Member Schmidt: I don't think it will be any different than what it was before. None of the neighbors had any complaints about the height during the public hearing. So apparently nobody seems to be concerned with it.

Chair Clemente: There were no comments made about the height, perhaps, but there was about the drainage for sure. Are there any other comments? Then we're asked to explain why the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variance requested. Alright, moving on. We're asked to describe whether the requested area variance is substantial. And noting that the zoning law's maximum height for a building of this size is 20 feet. It was previously approved for 23.5, and is currently being requested for 29.5.

Member Schmidt: I think it is fairly substantial, but considering the size of the building overall, I think it's within reason.

Chair Clemente: Then we're asked to explain how the proposed area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district. Taking into consideration the discussion that was had from the Building Department about the drainage and the methods that the applicant will take to make that not be a problem in this project. Lastly we're asked to explain whether the difficulty is self-created. Consideration is relevant but shall not necessarily preclude the granting of the area variance.

Member Schmidt: I'd say it is self-created.

Chair Clemente: Noting that it only contributes to one factor to be considered by the Board. Are there any other further deliberations? Then after considering the balance between the benefit to the applicant as weighed against any detriment to the community at large and the neighborhood in particular, would a member make a motion to grant, grant with conditions, or deny the requested area variance?

Attorney Gilchrist: If I could, I can't recall on the record on this application whether we've addressed SEQRA or not, but we should just note for the record that this an area variance sought in connection with residential use and likewise does constitute a Type 2 action and SEQRA review is completed.

Chair Clemente: And if I overlooked that, I apologize. And that's duly noted. Thank you. So right now it's in front of the Board. Looking for a motion on how we would like to act on this application.

Member Schmidt: I'll make a motion to approve the variance.

Chair Clemente: Thank you, Member Schmidt. Will the motion be seconded by another member?

Attorney Gilchrist: Before that second, I would just note that on this application it should be observed by the Zoning Board that there have been variances granted in July as Chair Clemente noted. There were conditions attached to that. We certainly do not want this variance action to be deemed in any way to alter those conditions. So one of the things for the Zoning Board to consider would be if there is a motion to approve the requested height variance, that it confirm and continue the conditions attached to the prior variances for this applicant.

Member Schmidt: I'd like to amend my recommendation for approval to conclude with Attorney Gilchrist's recommendations.

Chair Clemente: Yes, thank you Member Schmidt. And that would be to confirm and continue the prior conditions as stated by the Board back in July. So we have a motion. We're looking for a second.

Member Mainello: I'll second.

Chair Clemente: Thank you. We'll do a roll call vote all in favor, Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. So the area variance for the height proposed for 29.5 has been granted. Would the applicants please continue to coordinate with the Building Department on this project? Thank you very much.

Breen/Phung: Thank you very much. Thank you for the help.

Chair Clemente: Thank you. OK our last item for public hearing tonight is 718 Hoosick Road. Application is a sign variance application submitted by Hospitality Syracuse and Taco Bell. We will open the public hearing on this application. Attorney Gilchrist, would you kindly read the public hearing notice?

Attorney Gilchrist: Notice of public hearing. Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Brunswick at 7:00 p.m. on Monday, September 21, 2020 concerning the application for sign variance submitted by Hospitality Syracuse, Inc. for the Taco Bell located at 718 Hoosick Road. Applicant seeks approval to construct a free-standing sign at this location. Pursuant to the Governor's Executive Orders, the Town of Brunswick will be holding the September 21, 2020 Zoning Board of Appeals meeting over the internet, accessible to the general public through the Zoom video conferencing platform. Direction on participating in the September 21 remote Zoning Board of Appeals meeting, as well as copies of the sign variance application for public inspection, will be available on the Town of Brunswick website. All interested persons will be heard at the Public Hearing. This was published in the Troy Record, placed on the Town signboard, posted on the Town website and mailed to owners of all properties within 300 feet of the project site.

Chair Clemente: Thank you, Attorney Gilchrist. Would a representative from Hospitality Syracuse Inc. kindly present a brief overview of the project please?

Tim Freitag: Good evening. I'm with Bohler Engineering, here on behalf of the applicant Hospitality Syracuse Inc. We also have Mike McCracken representing the applicant tonight here on the line as well. We're here back again before the Board to host the public hearing in pursuit of a free-standing sign at the existing Taco Bell facility on Hoosick Street. The additional free-standing sign has triggered the need for variance relief for the free-standing sign as well as an update to the total site signage area and total number of signs on site. Since our last meeting last month, we hope everybody has had an opportunity to take a look at the site, now that the building is built and the signage on the building can be seen from the surrounding area. We hope everybody is familiar with the site location and can see some of our visibility concerns we have. As a refresher, our site is part of the 16-acre PDD for Brunswick Plaza. It's here along the heavily commercialized corridor of Hoosick Road. Back in 2018 or 2019, Taco Bell and our neighbor Sunmark were before the Town seeking permits for the site development of these two parcels. They both had successful grand openings in 2019. And at that time, Taco Bell was challenge to see if they could survive without

their own free-standing sign up along Hoosick Road. Since then, the applicant has, as part of this application, submitted a letter demonstrating some of the hardship they've faced over the year, financial hardship with this restaurant and how it's been underperforming. Certainly a surprise to the applicant along this heavily commercialized corridor, and the applicant is saying why is this happening? So we took a look at the site layout and really it's visibility. Is there an opportunity for me to share a screen? Or I can work off the site plan.

Chair Clemente: So, we can ask our moderator, Pat Poletto, if that's possible.

Pat Poletto: We don't allow people to share their screens with us.

Chair Clemente: Thank you, OK.

Tim Freitag: So, working off the site plan that you all see here in front of you, we'll call the top of the page to the north of Hoosick Road. So right to our west, we've got an existing building Pioneer Bank. Pioneer Bank sits about 40 feet off the road, while the Taco Bell sits about 80 feet off the road. What's happened here is when the initial signage survey was conducted to see what signage was needed to have a successful restaurant here, it didn't account for the setbacks and the topography difference up along Hoosick Street. So as you travel to the west, Pioneer Bank sits lower in elevation from us, and then as you continue to travel, the elevation drops. About 150 feet away from our shared access drive to the overall Brunswick Plaza and Hoosick Street, you lose visibility. You can't see the Taco Bell, you can't see that tower element, you can't see the wall signage. It's about 150 feet from our access. That's where the turning lane has been well established turning into the site, there's a bike lane between the travel lane and that right turn lane entering that site. And it makes it really difficult for patrons to see our site, react, and have adequate time to maneuver and position themselves into the turning lane to enter our site. The visibility from the west is minimal. From the east, it's a little bit better. We do have a Taco Bell script text over our main entry door on the east side of the building. That can be seen a couple hundred feet away on Hoosick Road. But it's small. And it's text and it sits half in the middle of the side of our building. That's set back 80 plus another 40 feet of our building width from the road. The pass-goers really have to look into the plaza to see our building. The signage up along Hoosick Street will allow patrons to drive by the site, see the site, see where to enter the site well ahead of time of approaching our access drives to safely maneuver into the site drives. Everybody knows there's plenty of food opportunity up along this corridor. If somebody passes by our site, they're most likely not going to turn around and go back. There will be other opportunities up ahead. For this type of quick serve restaurant use, you know 30-40% of their business is pass-by trips. So those are people already on the road, who see and react to passing by a quick serve restaurant and want to grab a bite to eat. So that's the sales that the applicant really believes are missing here, is the pass-by trips not being able to see their site in adequate time. The proposed monument sign here is zoning compliant outside of actually allowing a free-standing sign since we're part of the overall shopping plaza. A second free-standing sign on site is not allowed. Other than that, we're compliant with height, size of 32 square feet, and setback from the road. Our neighbors next to us, Sunmark, have a similar monument sign of what's proposed. They were able to get approvals as they were a separate standalone parcel during the development phase. But a very similar site location compared to Taco Bell, similar size, as our applicant here. Included in our application materials we submitted a project narrative that kind of summarized the area variance criteria. I won't go into detail, but just high points on each item here. Does the applicant believe this will create an undesirable change to this corridor? No they don't

believe so. This sign is consistent with our neighbors, Pioneer and Sunmark. And then further down the road, Dunkin, Ted's Fish Fry, Burger King all have their own free-standing signs. Can it be achieved by other means? The applicant tried, succeeding here without a free-standing sign and are underperforming. Really from the west side of the site, the visibility is really lacking and travelers heading east on Hoosick Road don't see the building in adequate time. Is it substantial? No, the applicant doesn't believe it's substantial. The lot is really of adequate size for this use. It can support the size of the sign we're proposing and it's very similar to our neighbors, Sunmark. There's no adverse environmental conditions that would be affected by this proposed free-standing sign. And then is it self-created? Really during the site planning phase back in 2018 and 2019, there were efficiencies to the circulation on the site that really depicted the building placement. We thought wall signs would be high enough up on the building to be seen over the top of that Pioneer Bank but it really was an oversight of seeing the topography difference as the grade drops to the west of us, which puts the site line right in the middle of the Pioneer Bank building, and you just can't see our wall signage. So is it self-created? No, I think during the site planning phases the site circulation superseded the concerns for visibility of signage, which in turn has created this hardship that the applicant seeks relief from. So we hope the Board will sincerely consider the application tonight. And both the applicant and I are here to answer any questions the Board or public may have.

Chair Clemente: Thank you, Mr. Freitag for that presentation. The Zoning Board will open the floor for receipt of public comment. If anyone would like to speak for the application or against the application, you're welcome to do so now. Are there any written comments on this application that can be read by the Board into the record?

Chuck Golden: There were not written comments received on this application.

Chair Clemente: Thank you, Mr. Golden. Are there any questions from Zoning Board members?

Member Schmidt: I have a question on letter saying you are underachieving. Could you tell me when that was taken? Was it during this pandemic when people can't go and eat anyway? I mean there was no indoor dining, was that part of your survey?

Mike McCracken: Could I speak to that? Can you hear me alright?

Chair Clemente: Yes, please go ahead.

Mike McCracken: So at the time of that letter, yes, it may very well have been. But I was even using comparative numbers with all other restaurants who were experiencing the same thing. Today I had prepared a chart for Tim to display on the screen but we didn't realize that we wouldn't be able to screen share. And I had attested to some of the numbers that I put together on the chart, and as a comparative analysis between our small market restaurants that we've built in the last four or five years, I can just quickly run by some numbers. For instance, Brunswick compared to Central Square. Central Square is performing 36% above Brunswick. Fulton NY is running 38% above Brunswick year to date. Auburn NY is 43% Brunswick, and Cortland NY is 48% above Brunswick and Oswego NY is 60% above Brunswick numbers. I would also say that the break-even line is looking like we're not going to quite get there. So we will lose money there this year from operating in Brunswick. It's a difficult thing because it is a fairly modern restaurant and I think that our serve

times and all the things we need to do as operators we're doing ok with. And as Tim eluded to before, it's 40+% generally speaking that is pass-by trips, people who happen to see us and pull in. So road signs are very important. Of those comparative numbers that I quoted, all of those locations have a road sign. Most of them have a pylon sign, which is even more significant than what we're asking for here. But if we can get some visibility on the street and have a sign similar to Sunmark's sign, I think it would go a long way to help using out here and our longevity there in Brunswick.

Chair Clemente: Thank you, Mr. McCracken. I want to make a clarification if it's needed. So the applicant is seeking three variances. The first is the free-standing sign. It's a second free-standing sign because the first is the property owner's. The property owners have a free-standing sign listing out the different tenants in that PDD. And then this question could be for Mr. McCracken or Mr. Freitag. What do these guidance apps do to help customers get directed to your restaurant? Oftentimes when people are looking for a particular restaurant, all they need to do is enter it in to their phone and they'll be directed to the restaurant's location. It seems like that would supersede the need for an additional sign.

Mike McCracken: Yes, you're right. Absolutely correct. But I believe that those customers or clients tend to fall into the category of the 60% that are actually looking for it as a destination. So it is the other 40% that makes the big difference in our volume. And those are the people that just happen to see us. They're not seeking us out, they may be hungry, they're coming up the road and they see us and it's an impulse purchase. It really is, it's not a planned purchase. There's been a lot of studies done on it that a good deal of our business comes from impulse purchases where people happen to see us on the road. And the further back they can see us, the better chance we have of capturing that customer.

Tim Freitag: One thing I'll add to that is, absent a GPS helping navigate to a site and the site's access drive, here we don't have our own curb cut. We're utilizing the shared access to the rest of the shopping center. So those GPSs and mobile device guidance gets you within a couple hundred feet and then as a driver you tend to start looking up and trying to get your bearings of where the building is and where you need to maneuver into the site. So yes the GPS will actually help you get to that location, but the last couple hundred feet you're really looking up for signage to identify where to navigate into the site and into the shopping center. In this case to get into our parking lot.

Chair Clemente: Mr. Freitag, just to defend some of those apps. They are voice assisted. So a lot of times the lefts and rights are announced as you get close to the destination. So going back to my point earlier, where the first area variance request is for a second free-standing sign. Just to address the first free-standing sign and that's with the property owner. What has the applicant done to bring your concern to the property owner for having your name placed on that first free-standing sign?

Mike McCracken: In our initial discussions, and I'm going back this is quite some time ago, that sign was pretty well full at the time. And that having an extra space on there wasn't available back then. I can recall this but I'm doing it off memory. And again, part of our problem here is two-fold. One, Nigro Companies conjoined the property prior to our occupancy. Had they not, had they left it alone, we would have been allowed a free-standing sign with a variance. But that particular sign doesn't allow for any of our logo colors or our logo and the bell is probably more recognizable than

the text. I mean when someone sees a Taco Bell bell, they know what's there. It's easy to identify, the color is easy to associate with Taco Bell, and it's really a big part of it. And not that we would not like to be on it, but for us to really be able to make an impact to the sales, I think we really need to have a branded sign similar to what the other QSRs have up and down the street there.

Tim Freitag: I just had my notes from our meeting last month, Mike. And our call with the landlord said that there were ten other tenants within the shopping center that didn't have signage on that free-standing sign because it was limited.

Chair Clemente: When the skies are darkened, the building lights up with a purple backlight. Would you consider that a sort of signage or attention grabber to potential customers?

Mike McCracken: Well yes I would say it is but again from one direction, by the time you get up and crest the hill, that light or attractive light that you may see, the purple glow, you're almost beyond the building. You'd have to make a quick right into there for that to be effective.

Member Curran: I travel up and down that street almost daily and ever since we had our meeting last month and I knew you were going to be here for your public hearing, when I'm traveling down I am looking to see where I can see the Taco Bell. And when I'm heading west, I'm up at Burger King and I can see Taco Bell. So at night, with the purple backlight, that's much more obvious. When I'm heading east, I can see the Taco Bell when I'm at Ted's Fish Fry. And if you miss the first entrance, there is another entrance into the plaza right after that so if someone wanted to go in and come around, they could get into Taco Bell there. So that's just what I've been observing when I've been traveling up and down the street there.

Mike McCracken: Respectfully, I understand what you're saying. I think from a business standpoint, if you're looking for the Taco Bell you will see it and you'll see it at a certain point. But what we're trying to capture is not the person who's looking for us but the street signage what it does is puts an impression and each time you go by there's another impression and it put its more top of mind. So you end up having that, oh yeah Taco Bell is always on my way home. It's not just that if you're looking for us you'll find us. We're trying to capture the customer that may just be hungry and not realize that we're there. But I understand what you're saying. If you are looking for us and you know which side of the road we're on, you can find us.

Member Mainello: I have a question. How did you come up with the 9-foot sign height? Because I know the Taco Bell in North Greenbush, that's a very tall sign, probably 15 feet on a pole. And the Taco Bell on Wolf Road is very short, it's maybe only four or five feet tall. Very similar to the height of the Pioneer Bank or Sunmark signs. Just wondering how you came up with that size sign. I believe the Pioneer Bank actually has the sign on the monument sign for the plaza and also have their own sign. But I'm just wondering how you came up with the height of the sign. Is there a study on that, or how did that come about as being nine feet?

Tim Freitag: So there are two options of these monument type signs that are off a pole and sitting right on the ground. One is a skinnier, taller option. Or a little shorter but wider option. Here with the west visibility impact, the taller and skinnier versus wider option is based on this curve. So there was a little bit of sign study but there are two options based on this square footage area.

Member Mainello: Do you think the Brunswick Plaza monument sign is going to block your sign at all? Is it going to cut down on the visibility of that? Because I see it's in almost the same line of sight.

Tim Freitag: We actually went out to the site and looked at that and it's definitely a unique section of road where the road here starts to turn. As you're approaching from the west going eastbound, you come up to a slight left turn so the proposed Taco Bell sign will stick out in front a little bit of the Brunswick Plaza sign and not interfere with each other.

Member Mainello: Thank you, Tim.

Chair Clemente: Just to reiterate a point that was brought up by Member Schmidt. In regards to the Covid health crisis that the nation is in, how would you simply measure an increase or change in your sales if a sign were installed? As we open up and come out of the restrictions that have been placed on restaurants, how would that be measured properly I guess?

Mike McCracken: Well we could take a block or period, a comparative period from last year and certainly be able to tell what kind of impact that sign would have. I can say from experience that any type of additional signage always has an impact. You're probably familiar with highway signs and things like you see a blue sign on the highway and it shows the different offerings. We've noticed that those can even increase your business up to 50%. We've seen a 50% increase in business when we add one of those highway signs. And we've always seen 10–15% increases when we add any type of roadway signage. I've had similar situation with another restaurant as well. And I don't have those comparative numbers now but I can tell you it's more than 10%, sometimes as much as 50%. That's quite an impact in a market where we're struggling a little bit.

Chair Clemente: I guess I question how you would isolate one variable. So the one variable you're hoping would be the sign, in a time when the attendance of customers to restaurants is changing. Coming out of the restrictions from the pandemic. How would you be able to just isolate the sign to be able to measure that?

Mike McCracken: So since Covid, and I don't know if I mentioned this in the last meeting. The initial impact from Covid was severe. Our first week or two during the shut-down, we were down 30–40% per restaurant. We have since levelled. Year after year, business from last year, this is actually exactly the same within a few percentage points. It's just that all of our dining business is now going through the drive-thru. So it is fairly comparative. The business model is changing. And I see this going forward. There won't be as many destination type customers. It's going to be more drive-thru customers. They're even starting to change the design of the Taco Bells going forward to adapt to this new world we're living in. But our numbers are fairly consistent from last year even through the Covid. We only had a downward for about three weeks and then it kind of rebounded and now we're looking across restaurants; we're about where we were last year with the dining rooms open because people have gotten used to just going through the drive-thru using GrubHub and delivery services. So that road pass-by trip is even more important because there's less likely to be as many destination type customers.

Chair Clemente: Thank you, Mr. McCracken.

Member Schmidt: I have a question for Chuck. How would this sign, if approved, affect the total number of square inches of signage on the building or for the building?

Chuck Golden: Member Schmidt, I will have to get the numbers. The total numbers. I'll look back and see what exactly they were approved for initially.

Attorney Gilchrist: That's a note that I had made as well. My recollection, and we certainly should confirm the record, is that on the prior sign variance application there were variances issued for wall signage for this location. As we sit here right now, I don't have that record in front of me. That should be checked because I know there was extensive discussion regarding a monument or standalone sign on the Taco Bell as opposed to wall signage, and the functionality of the bell symbol on the exterior of the wall. And I think that should be checked to determine if there were variances granted for that, the extent of those variances. And then secondly, I know the Building Department has preliminarily taken a look at the number of signs down there which may include information that's in the windows of the building and I think that's important and relevant information for the Board to take into account.

Tim Freitag: I've actually got the approval minutes from January 28, 2019. The approval was for seven site signs with a total of 114.11 square feet. And our application has obviously increased that from seven to eight site signs, with a total square footage addition of 32 square feet but that's per side that needs to be added to this so it's an additional 64 square feet, putting our total to 178.11 square feet. Just a response to the comment of some observed additional site signage on-site. Mr. Golden has circulated some window signage and other miscellaneous site signage that was observed to be on-site. And we just need to connect with Mr. Golden and the Building Department to get an interpretation on what would be considered under the temporary signage provision of the code. Because it does address I think it's like up to 25% of window area can be accommodated with window signage. So I know the applicant is willing to work with Mr. Golden to clean up and make sure that we're compliant in that regard on-site and not affect any of our variance requests this evening. But if there is a code violation, the applicant will certainly work with the Town Building Department to get that resolved.

Chair Clemente: OK I think we've all seen those pictures. There are signs that were in the building's windows, and also covers on bollards I believe outside. So in regards to the public hearing, which is currently open, hearing no public comment, the Chair offers a motion to close the public hearing portion of this application. Would a member second?

Member Schmidt: I'll second.

Chair Clemente: Thank you. All in favor, roll call vote to close the public hearing. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. Thank you. Public hearing is closed. There's still time for questions by the Zoning Board members if that's needed. We'll determine whether or not the Zoning Board members are prepared to deliberate and act on the application.

Member Mainello: I have one question. This is for Chuck. Was their proposal submitted for the signage for the Kentucky Fried Chicken or Wendy's? Are they going to have a monument sign out front on that parcel?

Chuck Golden: Actually, Member Mainello, the very first thing we received in this office from KFC was their signage application. Well not an application but just what they expected for signage and a gentlemen contacted us about their opening date banners and everything they were planning on putting out there, which I kind of thought was a little premature in that we hadn't even gotten a building permit or actually approved where it was supposed to go. So yes there was and I distinctly remember the front portion of the sign there was a pylon sign. It was 30 feet in the air, is what the proposal was they gave us.

Attorney Gilchrist: If I could respond as well. Those proposals also include an application to subdivide certain parcels. We've heard tonight that the Sunmark building adjacent to this Taco Bell has a monument sign and the reason for that in large part is that it does sit on its own separate lot and as a separate lot has the ability to have its own signage analysis. And still I agree with the Building Department that it's somewhat premature on the proposed projects down Hoosick Street but I know in part that application does seek subdivision of the parcel. Here it's important to note that this property does remain part of the Planned Development District of the overall plaza. It's part of the same lot and that's how the application was processed.

Chairperson Clemente: Thank you, Attorney Gilchrist. Before we go any further, Attorney Gilchrist, is there any other considerations that the Board should be looking at right now? Are we missing anything?

Attorney Gilchrist: I do have one question if the applicant is aware of this. It really does speak to the underlying property owner. But that is, there was a condition on the Planned Development District amendment allowing for these facilities to transfer a parcel of the land adjacent to Hoosick Road to the State of New York. It's shown on the site plan. I know the property owner came back to the Brunswick Town Board seeking amendments, strike that, seeking extensions of the time to get that transfer completed. It's my understanding on the record that the time within which that transfer needed to be completed has expired and the question is, has title to that sliver of land adjacent to Hoosick Road along the Hoosick Road corridor been transferred in fee title to the State of New York?

Mike McCracken: I know that the gentleman that I would deal with from Nigro, he is not with the company, Steve Powers, and he had indicated that it was a go and they just had to sign the paper work. All I remember hearing was there was some question about the road improvements and maybe who was going to do the road improvements. But it was my understanding that they did what they were supposed to do. But I can't confirm that. I have no absolute way of confirming that for this meeting. But he had indicated to me that they had done it. But I didn't....

Attorney Gilchrist: Certainly...and note that I did serve as counsel for the Town Board on the PDD amendment, and I know there was a condition attached to that amendment and certainly the last information that I had, I believe it was at the close of 2019, that the land had not yet been transferred; they were still waiting for some action by New York State DOT and I certainly don't have any information that the land transfer was completed. I'm not sure anything has been provided to the Town of Brunswick. Is the Building Department aware of what the status of that parcel is?

Chuck Golden: We have not received any information that it had gone through.

Attorney Gilchrist: The reason I raise that is clearly it's shown on the site plan, it should be considered by the Zoning Board in relation to the proposed location of the monument sign. That was specifically identified in the PDD review process on the amendment to allow these facilities, to allow for future road improvements to continue the two lanes heading in an eastbound direction along Hoosick Road rather than having that little bit of a neck from a two-lane back to a one-lane back to a two-lane in the eastbound direction on Hoosick Road. So that was a fairly critical portion of that PDD amendment review. And I think it is relevant information for the Zoning Board to know whether that land has been transferred and how it would relate to the proposed monument sign at that location. I will note that in the Brunswick Zoning Law there is a provision that does prohibit the Zoning Board from considering or acting upon the variance application if there are any outstanding violations. This is something that the Building Department should look into to determine whether that condition attached to the PDD amendment has in fact been complied with, or if there is an existing violation of failure to comply with a PDD amendment condition. That is very relevant on this application and the Zoning Board should know the answer to that. Not simply from a compliance stand point with the Building Department, but from a use of that sliver as potential road improvement in relation to the proposed location of the monument sign.

Chair Clemente: So, just a couple questions on the points you just made Attorney Gilchrist. So that parcel of land potentially could be used for road improvement, could then the existing signs on that land be taken down for that purpose of road improvement?

Attorney Gilchrist: You'll note on the site plan that's on the screen, there are no signs within that sliver of land adjacent to existing Hoosick Road, and this proposed sign for Taco Bell, the monument sign likewise is not within that. But I think the Zoning Board should consider the location of the proposed monument sign not in relation to the existing travel lane through there but in relation to what will be the lot line of the plaza PDD upon transfer of that sliver to the State of New York. That's the point taken there. It's not just a compliance point on complying with the condition attached to the PDD amendment. But it is relevant on the proposed location of the monument sign in relation to potential future road improvements there. I think it's also relevant information for the Zoning Board. You've heard a lot of information from the applicant tonight, relevant information on other locations and the impact of signage at the other locations. But to have a clear understanding whether those locations are within an existing mall situation where it's not a separate pad site with its own right to a sign but if those other locations are part of what amount to shopping plazas with one monument sign with the tenants on there. I think that's relevant for the Zoning Board to consider as well.

Tim Freitag: I'd just like to chime in the setback of the sign in relation to that DOT expanding right of way and then Mike I don't know if you're able to speak a little bit more on the similar site

locations and if they were a part of mall developments or not. But in regards to that DOT sliver of land that's being transferred. I'm not aware whether that has been completed or not to this date. You can see that sliver of land here on the site plan. Right in front of our proposed red sign location. Here we've got a very tight sliver of greenspace available for our sign. Whether that right of way dedication has occurred or not, we're not able to move our sign location. Positioning that sign 15 feet from that new property line would position that sign within our drive-thru. You can see the property line gets very close to that drive-thru entrance radius, maybe two or three feet off, as well. So the sign would stay in the location where it's currently proposed. All signage conduit electric and foundation would remain on the applicant's property. But the setback would get smaller if we're pulling it from that new property right of way line versus what we currently believe to be the existing property line where we're calling it 15 feet today. And this would be similar for Sunmark's sign and potentially the plaza sign, in that those signs would get closer to that new right of way line. So just unfortunately we don't have the adequate room to move that sign if that right of way does change and it would also potentially block more visibility to that existing plaza sign if we pulled it closer to that sign as well.

Mike McCracken: I was just looking over the comparative analysis that we put together of the restaurants that I mentioned that were built recently and they're in the rural smaller markets. Central square is part of a bigger overall development with a shared driveway. Oswego is a standalone pad, Fulton is a larger development within in a plaza with a shared driveway. Auburn also is a shared driveway into a multi-tenant Starbucks Walgreens and then Cortland is a standalone. So it's a mixture, what I've provided you, there's differences. One other note I'd like to say about the location of the sign is, as Tim said, the Sunmark sign will end up being pretty close but also the curvature of our drive-thru which is existing, looks to be like it might even be a little closer than where the sign is going to end up. So there is that adjustment that would create some changes to setbacks but I think the sign could exist there and still look like the rest of the signs going up and down the street. Again, as far as the deed on that sliver, I can't speak much more to that. I could reach out to Nigro and find out what's going on. In my conversations that I had, I was under the impression that they did sign all the paperwork and hand it over whether or not DOT took deed and title to it or took the action they had to file or report it, I do not know.

Chair Clemente: So it looks like a confirmation of that land transfer would be beneficial if perhaps we can hold that record in the Building Department. Attorney Gilchrist, I just had a question on a note that you brought up regarding the existing outside violations. Was that in regards to this land or to the numerous signs that are on the building?

Attorney Gilchrist: Actually that may address both. Certainly the condition that was attached to the PDD amendment if that has not been complied with there is a compliance issue regarding that. And if there are any, not to suggest that there are subject to Building Department review, but if there are any outstanding violations concerning signage at the current location, they would need to be addressed too. And again I'll just note that the 2017 Brunswick Zoning Law does prohibit the Board from acting on a variance application in the event there are any outstanding violations or compliance issues. And not to suggest that there are, but I think it should be confirmed on the record.

Chair Clemente: Thank you for that clarification. So to the Building Department. Mr. Golden, at this time do you have any open records or open outstanding violations on this property at this time?

Chuck Golden: No we do not.

Chair Clemente: Thank you.

Chuck Golden: I have to admit, one of the things that I had first noticed about this site is when I went down there at night, and people made the comment that it kind of looked like Las Vegas. Would you consider the indirect or LED lighting on the backside of that lattice work as part of the advertisement for Taco Bell? Now this is a question to the Board.

Attorney Gilchrist: Before the Board responds to that, it's something that first should be reviewed by the Building Department. That is an initial interpretation of the sign law by the Building Department and if there is anyone aggrieved by the determination, they do have the right to appeal that determination to the Zoning Board. So I do think it's premature for the Board to weigh in on that until there's a final determination or interpretation made by the Building Department.

Chuck Golden: When Member Curran said something about seeing the lighting, if that had that effect on her then I'm not certain if purple is a color of Taco Bell. But that's just what struck a nerve with that. I will do that research and get back to the Board.

Chair Clemente: Are there any questions or concerns by the Board members at this time?

Member Schmidt: I'll just add a little bit, I'm wondering if Chuck could give us a total number of what he considers the signage on the building now and what it would be with this sign. And then compare that to how much is allowed.

Chuck Golden: With everything that I had and added up, that added roughly another 100 square feet. And currently at 178 that would bring you to 278. Maximum is 300 square foot or I have to run the cumulative areas again. I forgot what I did with that piece of paper. Your maximum is 300 square foot or the total cumulative area of all signs permitted at the rate of 1 square foot of sign per square foot of building area in front plus ¼ foot frontage plus ¼ foot of front setback from the main building, whichever is less. I can run those numbers again, and I believe those numbers were over 300 last time I ran them. I do not have that sheet of paper on me, I'll have to do that again and come up with those exact numbers for you.

Chair Clemente: But I believe that we have the numbers from the applicant and the total square foot is 178. That's the value that we're using tonight.

Chuck Golden: That is correct. It could change if I want to rule that the Grubhub signs, the shadow box signs that are inside the windows, if the decals on the windows are all also non-temporary and are actually part of the signage. If the bollard sleeves for Pepsi and another one for employment at Taco Bell, I'll have to make a decision on that.

Tim Freitag: As I mentioned earlier, those additional miscellaneous signs on-site are what the applicant believes are temporary. There is a provision in section 160-86 of the Town Code that discusses temporary signage. That addresses window signage, and certain definitions that will help guide the Building Department to make that determination on whether that existing signage out there is code compliant or not. We're not here to get that permitted. It's temporary signage, everybody is out there scrambling in the life of Covid to add Grubhub signs, to add employment opportunity

signs, just to kind of make it day by day right now. But if the determination by the Building Department is that is unpermitted signage, the applicant is going to work with the Building Department to resolve that. It's not going to change our request tonight for the 178 feet of signage. Thank you.

Chair Clemente: Thank you for that clarification. So moving on, Attorney Gilchrist, this is not a residential application. Could you kindly guide us in the SEQRA review at this point?

Attorney Gilchrist: So there was a short environmental assessment form submitted with the application. As the Board is aware under the State Environmental Quality Review Act, you need to review the information contained in the environmental assessment form in the application documents to determine whether in your opinion there is the potential for at least one significant adverse environmental impact from the proposed action. The action here being the sign variance. If you determine that there is the potential for at least one significant adverse environmental impact, then you'll entertain a motion to adopt a positive declaration which will require an environmental impact statement. On the other hand if you determined based on the review of the environmental assessment form and the application documents that there is not the potential for at least one significant adverse environmental impact then you'll entertain a motion to adopt a negative declaration and conclude the environmental review process. So that is a determination that would need to be made by the Board prior to any deliberation or action on the application.

Chair Clemente: Thank you. Reviewing the environmental assessment form, I would say that there's no significant environmental impact on the proposed sign if it were granted and I would adopt a negative declaration. That is the motion, would a member second?

Member Mainello: I'll second.

Chair Clemente: Thank you, we'll do a roll call vote on the negative declaration. Member Schmidt?

Member Schmidt: Aye.

Chair Clemente: Member Curran?

Member Curran: Aye.

Chair Clemente: Member Mainello?

Member Mainello: Aye.

Chair Clemente: Thank you, and Chair Clemente aye. So if there are no other questions or items for discussion by the Zoning Board members, the Zoning Board members will review the factors for consideration of the sign variances. As the discussion will create a record for the basis of a decision by the Zoning Board. Just to re-state, there are three variances. The first request is for a second free-standing sign. This is in addition to the PPD sign that already exists. The second sign request would be for the total number of signs which is currently at seven and would go up to eight. And the third would be for the square footage. The last time they came in front of us it was 114.11 square feet and this request is for 178 square feet. So then, we'll go through our factors. We're

asked to explain how no undesirable change will be produced in the character of the neighborhood nor detriment to nearby properties created by granting the area variance. And perhaps here, Attorney Gilchrist, is it here where we could ask for confirmation of that land transfer to New York State? And would that be beneficial for the Zoning Board to have before a determination is made?

Attorney Gilchrist: I've raised the issue regarding the land transfer simply because that was a condition of the PDD amendment which allowed the construction of this Taco Bell facility. And it has not been confirmed on the record whether that land transfer has occurred or not. Now, in relation to the proposed sign, the applicant has said we are identifying the current boundary line and the revised boundary line upon transfer of that parcel to the State of New York. But regardless, the sign location will not change. So in terms of where the proposed monument sign will be located, the Board does have adequate information in front of it as to where it would be in relation to the potential future travel lane in that location. I will note for the record that the drive-thru has been discussed. That was considered by the Town Board on the PDD amendment as well as the Planning Board on the site plan in relation to what would be the revised boundary along the Hoosick Road corridor and determine that it was the appropriate location. Certainly the building location was considered in relation to the drive-thru. Hence, it's setback off the Hoosick Road corridor. But in terms of where the monument sign would be, that was not considered as part of the PDD amendment nor the site plan because those were not PDD or site plan issues. There's a sign law in town and if a variance is sought from that sign law, it comes to the Zoning Board. I would certainly advise the Zoning Board that it should consider its prior deliberation and action on the earlier variance request in relation to the number of signs on the Taco Bell. And I would also advise the Board on this just for purposes of precedent and administrative consistency, you should also consider unlike the Sunmark sign which is on a separate parcel, this is a tenant in the Brunswick Square, maybe the Brunswick Plaza Planned Development. That is a tenant. And if a singular free-standing monument sign for one tenant is allowed, it could generate additional applications. We've heard a statement by the applicant that there are up to ten tenants that do not have signs on the shared monument sign at the entrance here. In terms of looking at the element on impact to surrounding properties, on this one particular application it's for one free-standing sign and that should focus your deliberation. But you should consider administrative consistency in the event there are other future signs by other tenants who are also tenants at this particular plaza. These are all relevant considerations and the need for a monument sign is really generated by, or the issues that the Zoning Board has to consider on this is really generated by, the fact that this one location is still part of the overall plaza that has a number of tenants and the impact of allowing a free-standing sign for one tenant I think should be considered. So on this one particular sign variance application, Chair Clemente, yes you have to consider the impact of one proposed sign on surrounding properties whether that would be consistent with the neighborhood or create a detriment to off-site properties. And that should focus your inquiry on this particular application. Just be aware that this could give rise to future applications as well.

Chair Clemente: Thank you, Attorney Gilchrist. Then we're supposed to look at our second factor which is to explain why the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variance. So the benefit as described by the applicant would be visibility. They're proposing that the benefit would be achieved by a free-standing sign. Are there other feasible alternatives that could increase or benefit the applicant to improve their visibility? I do take some issue with the landowner, with the first main free-standing sign and some businesses or tenants that are taking up more than one sign space on that large sign. Just a point. I appreciate the applicant's discussion of their logo and how the logo attracts customers,

but I do take issue with the main primary free-standing sign and how it allows which tenants to be on it and some to not be on it. Then we're asked to describe whether the requested area variances are substantial. Again, it's for the second free-standing sign, number 1. Number 2 the total going from 7 to 8. And the square footage going from 114 to 178.

Member Schmidt: I think because of what Mr. Gilchrist said, it is substantial because it would open the door to a lot of other stores wanting to put up signs. So in a way that makes this more substantial than it would under normal circumstances.

Mike McCracken: Am I allowed to speak at this point, or is it too late for me to bring up something?

Chair Clemente: Procedurally the public hearing is closed but if you want to address that comment, you're welcome to.

Mike McCracken: Just between Sunmark and ourselves we had delineated site plans that basically the plaza owner can't just put another sign up on our piece of land. So if you look at the frontages, the frontages are pretty well taken up and controlled by both Sunmark and us. We wouldn't allow in our lease other signage from other tenants to be on our piece of leased property. So I just wanted to speak to that would because that would make a difference, if there is not really a location for some of these signs I think that some of that worry may go away.

Member Schmidt: There is no reason they couldn't apply, not saying it would fly, but they could apply to put a monument sign in front of each store.

Chair Clemente: We're asked to explain how the proposed area variance would not have an adverse effect on the fiscal or environmental conditions in the neighborhood or district and please note that after the review of the short environmental assessment form, the board voted to a negative declaration. And then we're asked to explain whether the difficulty is self-created? If present constitutes only one factor to be considered by the board does not if and of itself act as a bar to grant the area variances. So after considering the balance between the benefit to the applicant is weighed against any detriment to the community at large with the neighborhood in particular, we are asked to make a motion to grant, grant with conditions or to deny the requested variances.

Member Schmidt: Going back to what Mr. Gilchrist told us about the land transfer, I think we should postpone a vote, until we find out whether that land has been transferred, he pointed out to us and guided us that we legally cannot act on a variance if there was a condition that hasn't been met by the applicant or by the owner of the site.

Attorney Gilchrist: I'll just clarify for the Board members, two points: one, I identified the condition attached to the PDD amendment that allowed this facility. One of them was the transfer of land to the State of NY as shown on the site plan, we simply don't know if that's occurred yet or not, so we are not sure at this point whether there is any non-compliance with that condition. And secondly, we did hear from the building department that there are no current outstanding violations from the building department's perspective so, right now factually on the record, we can't determine whether there is any non-compliance with the PDD amendment condition or anything regarding signage. There simply is not that information in front of the Board so, when I reference the section

of the 2017 Zoning Law that does speak to any outstanding violations, we can't state determinatively on the record whether there are or not, we simply don't know.

Chair Clemente: Sorry, Sorry...however didn't the building department say that there were no outstanding violations in regards to the total number of signs. Are you saying that something doesn't square up, that the visuals have shown a variety of signs being on the bollards or the windows but then there are no outstanding violations, is that a difficult point right now?

Attorney Gilchrist: No, no. Let's be clear, the Board has been provided with those photos from the building department and we heard the building department state tonight, that there are no outstanding violations, that's a determination made by the building department not by the zoning board nor by the zoning board's attorney. That part is clear on the record. I raise the issue of the condition attached to the PDD amendment that likewise is a requirement of the Town of Brunswick concerning this project. We do not know, on this record at this point, factually whether that has been complied with or not, specifically whether the land has been transferred to the State of New York. The applicant does not know that, and the Town of Brunswick, to my understanding does not know that. If the Board is inclined to move forward and act on this application, certainly that will need to be addressed. It could be addressed through a condition, but I will tell you as Counsel for the Town Board on the PDD amendment review process, the identification of that sliver was coordinated with the applicant's engineers with the NYS Dept. of Transportation, and the Town Board, and that was an important factor in considering approval of the PDD Amendment allowing this facility to the extent of attaching that as a condition to the PDD amendment approval, that time frame within which to comply with that was extended at least two times by the Town Board. As I sit here right now, I don't know if the Town has been provided any proof that that title to that sliver has been transferred to the DOT or to the state of NY. All I can tell the Board is that was an express condition of the PDD approval for this project. If the Board is inclined to move forward and act on this application, certainly a condition that the Board should consider is confirmation that that land transfer has occurred and if not, the Town should move forward and make sure that condition has been complied with by the underlying fee owner. We've got an application that has been signed by the underlying fee owner, seeking the sign variance, we've heard nothing directly from the fee owner on this application, and the Board does not have any information on whether that land transfer has occurred. That is simply the state of the record before the Board right now.

Chair Clemente: Hearing the importance of this confirmation that the land transfer has been done, and converted over to NYS, I would make a motion that we take the time to wait for that before going and granting these variances. Any discussion on that from the Zoning Board members, if not I would entertain a second.

Member Schmidt: I'll second that and could I add that if that land transfer does take place will they need a setback variance?

Chuck Golden: I did step off, measure up the right of way as existing and I will do that again regarding where, obviously I have to set something up to try to guess where that ROW is, we don't have anything out there, stakes or anything like that but I will do my best to confirm that the set back of that sign will not require a variance.

Chair Clemente: Thank you. A question for Attorney Gilchrist. You mentioned that the date for the confirmation for this land transfer was postponed twice, could you kindly give us, if you have the original date that that was requested?

Attorney Gilchrist: Now you're taxing my memory, it was sometime, I don't have that in front of me, my best recollection, subject to check, is that the last requested extension ran through December of 2019. In that I know previously there may have been at least one, possibly two six month extensions.

Mike McCracken: Can I ask a question of Attorney Gilchrist?

Chair Clemente: Of course.

Mike McCracken: As it relates to the transfer of the piece. If Nigro has signed the title over to the DOT, which I am under the understanding they have, but the DOT has simply not accepted it yet, or filed it yet. Would that still be, is that something, I am of the understanding that Nigro has done that, they, Nigro, has done what they were supposed to do, but the DOT is reviewing it and their review process is very lengthy and I just think they haven't taken title yet. I don't think it has anything to do with Nigro any longer.

Attorney Gilchrist: We will certainly take a look at whatever could be submitted by the underlying fee owner. That is exactly the basis for the earlier multiple extensions on the time to transfer the land which the Town Board took into consideration in granting those extensions. We are well beyond the original approval which attached the condition, which gave a period of time to get that completed and there have been multiple extensions all based on DOT still reviewing this, so, if that information can be submitted by the underlying fee owner, that certainly can be reviewed but that is something that the Town Board heard well over a year ago.

Chair Clemente: Ok, so just to recap there is a motion out, a motion has been made to extend this application to allow for information to be submitted in regards to the confirmation of the land transferred to NYS, to have in record by the Town of Brunswick. Is there a second, would a member second?

Member Curran: I second

Chair Clemente: The roll call vote, all in in favor of the motion.... Member Schmidt?

Member Schmidt: Aye

Chair Clemente: Member Curran?

Member Curran: Aye

Chair Clemente: Member Mainello?

Member Mainello: Aye

Chair Clemente: And Chairperson Clemente?

Chair Clemente: Aye

Chuck Golden: I will start researching this tomorrow to see if I can find what the status is on this. If it is still on hold with NYS, does that mean that this cannot be acted upon until that is cleared up or do we go through the extensions which we had done previously. I believe this was contingent upon the certificate of occupancy for this restaurant. For this to be done and dragged on and on and I just want to know if the status is still in limbo, does this mean the Board can't act upon this?

Attorney Gilchrist: We'll review that legal issue, and then we can advise the Board.

Chuck Golden: Thank you.

Chair Clemente: Thank you. Let's consider placing this application on the October agenda. The October 19th we will await the information from the Building Department.

Tim Freitag: Chairman Clemente.

Chair Clemente: Yes.

Tim Freitag: For clarification, Mr. Schmidt's comment earlier went unanswered and I kind of have a similar question about the setback. With or without the ROW, we're very constrained where we can position this sign to not interfere with the other signage on site and the drive thru. We are not going to be able to move that sign anywhere else. Right now we are 15 feet compliant to what I would call the old property line and not what's being dedicated to DOT. If we're not to come back until that process has been filed with DOT that is going to be our new property line and we're going to be looking at about 5 feet offset. My understanding is the Code requirement is 15 feet thus putting us in a position of an additional variance request. I will add that the 5 feet is more than what the drive thru is currently is at 2-3 feet, it will be similar to Sunmark and the existing Plaza sign are set back from that new ROW but that could add a new variance to this mix here and how would that be handled?

Chair Clemente: So, I could confirm that with Attorney Gilchrist that would be renoticed then, would we have, be opened up for a new public hearing of the 4th additional area variance?

Attorney Gilchrist: It's an interesting issue, because if, in fact, the land transfer has been completed to the state of New York, then that would be an existing property line and the set back of the proposed monument sign from that front lot line, may require a variance subject to review and confirmation by the building department. If the calculation was taken off of what we can call on this record, the old property line, the existing Hoosick Road corridor, that wasn't complaint under what was required under the PDD Amendment. I think on this record, since it was a required condition of the PDD Amendment to transfer that land, I think Tim, it would be appropriate to calculate off from what would be the new and final front lot line and you've indicated clearly on the record that there is not a lot of room there, and you can't move the sign and get the visibility that you are looking for. I think that additional variance request ought to be submitted and noticed. You're going to be coming back to the October meeting anyway, make sure that we have procedural compliance on that setback issue and have the Zoning Board address that one as well. I just think that it's safest on the record, to make sure that issue is checked off as well Tim.

Tim Freitag: Thank you Mr. Gilchrist and I appreciate everybody's time here, I know it's getting late, but with that conclusion that we may be submitting an additional setback variance, are there any preliminary questions from the Board in that regard? That we may be able to pull together as part of our submission for that variance at this time?

Chair Clemente: Would there be any consideration of moving the monument sign to the left of the drawing, so closer to the bend of the drive thru or does that not work with your calculations on the distance of visibility?

Tim Freitag: On this plan, it's really faint to see that existing plaza sign, but you can see it. As we start shifting to the left, we get more in front of that existing sign and start blocking visibility to that existing plaza sign. We are really beginning to thread the needle from sight visibility lines in our location, hence the concern we have of trying to move that in any direction.

Chair Clemente: I don't have any questions to bring up at this time. So thank you, it is getting late on this and we do have new business to cover. So if we all understand how we are going to proceed. Thank you for your participation tonight Tim Freitag, we look forward to seeing you in October.

Tim Freitag: Thanks so much for your time this evening, we appreciate it.

Chair Clemente: Thank you. Mr. McCracken as well.

Mike McCracken: Thanks.

Chair Clemente: Ok...so, if we are going to move onto new business, we have six applications, at 9 o'clock at night. As stated earlier, going over the agenda, 394 Pinewoods, 29 Norfolk, 1 Seneca, 29 Killock, and 660 Hoosick Road. We will begin at 394 Pinewoods Avenue, Mr. Palmetto. Do we have the applicant with us? I believe we do. **Inaudible**. Mr. Poletto how are you hearing now?

Pat Poletto: I'm checking now to see if we have any phone people. I know he has been in and out but I don't see him right now.

Chuck Golden: He did email me and tell me that he was having computer problems.

Pat Poletto: He is on, I do see him now.

Chair Clemente: Welcome, 394 Pinewoods Avenue, Mr. Palmetto.

Pat Poletto: The beeping noise you hear, I believe that is him.

Chair Clemente: So Pat, as the moderator, I'm going to leave it up to your discretion whether or not we have a good connection to proceed.

Pat Poletto: I can see him now but I don't hear him.

Chair Clemente: Um, so...

Pat Poletto: Do you want to move on and we'll come back to him if he figures out his problem?

Chair Clemente: I would think so.

Pat Poletto: Try to call in.

Chuck Golden: I will respond to him via email with the call in numbers and password.

Mr. Palmetto: Our modem died, I've called Spectrum but this is the best I can do is on my phone. Can you guys hear me at all?

Chair Clemente: I am able to hear you. This is Chairperson Clemente, welcome. Thank you for joining us tonight. So Mr. Palmetto if you can kindly present to us a brief overview of your project please.

Mr. Palmetto: Ok, if you guys can hear me....it's been brought to my attention that, from Chuck Golden at the Building Department that the property is not conforming, it's existing, but not conforming for two reasons, the house should/needs to have a setback of 40 feet and it's only 28 feet and a side structure on the accessory apartment should be 15 foot and it is only 7.2 feet so we are here to try to make these conforming.

Chair Clemente: Ok. Thank you very much. So just to clarify? Two things, in the letter and in the survey drawings, it says that the front setback is 8.8, however, in the application it says it's 18.8. Could you kindly give us the correct value?

Mr. Palmetto: I'm sorry I didn't correct that. It is actually 18.8 feet.

Chair Clemente: So the setback distance would be 18.8 feet.

Mr. Palmetto: Yes, my apologies. The setback show be 18.8 feet.

Chair Clemente: No problem

Mr. Palmetto: The "1" didn't print on the survey.

Chair Clemente: Thank you. Just for clarification, the two requested area variances would bring the property into compliance. This does not involve any new construction, is that correct?

Mr. Palmetto: That's correct.

Chair Clemente: Ok. So the application looks complete for the purposes of holding a public hearing. I appreciate all the hard work that was put into it, by the applicant and the building department. Mr. Palmetto, would you give permission to the Zoning Board members to visit the site?

Mr. Palmetto: Yes, absolutely.

Chair Clemente: Thank you very much. For scheduling our October meeting, I just need some help, I know we have some old business that we put on for next month so if someone could kindly help me figure out where we'll start putting our new business applications in on our clock. Are we up to 6:30 do you think?

Attorney Gilchrist: I'm going to ask this applicant, is this likewise the site that is currently pending in front of the Planning Board for the special use permit for the accessory apartment? Is this the same site?

Mr. Palmetto: Yes.

Attorney Gilchrist: OK. So this is both in respect of this application as well as the later application for 660 Hoosick, the Leon application, and that is, the Planning Board will be holding its October meeting on October 15th and pending in front of the Planning Board on this application is a special use permit application to bring the accessory apartment likewise into compliance. Obviously in front of the Planning Board is a site plan application for the Leon project on Hoosick Road, 660 Hoosick Road, which you'll have, on your agenda for a little later under new business. The Planning Board has discussed and would like the Zoning Board to consider, since there are applications pending both in front of the Planning Board and the Zoning Board, is to have the Zoning Board consider holding a joint public hearing. And also for the Zoning Board to consider a joint public hearing for Leon. Mr. Palmetto, did we discuss at the Planning Board having the joint public hearing together, or just take you in the ordinary course.

Mr. Palmetto: I thought it was considered that we would do a joint hearing.

Attorney Gilchrist: That is what I thought as well. So, what I'm raising with the Zoning Board is the Planning Board's discussion and request for you to consider holding joint public hearings both on the Leon project as well as this project and that the Planning Board considered placing them on their October 15th agenda. What that would entail would be a special meeting of the Zoning Board because that's a few days prior to your regular October meeting. So that's one consideration for the Zoning Board, is the option of holding the joint public hearing. The reason the Planning Board raised that and considered that is that the current Brunswick Zoning Law does promote when available a consolidation of procedure which can include joint public hearings on projects that are pending in front of both the Planning Board and the Zoning Board. So that is the first thing for the Zoning Board to consider. The second thing is the Planning Board is currently holding their meetings in person, they have discontinued the use of the Zoom platform and if there is going to be a joint public hearing for these projects, it's certainly the preference of the Planning Board to hold that public hearing in person. There is the potential for having more people at a public hearing than the Town Hall could accommodate under the current Governor's Executive Orders. In that case, the Planning Board is willing entertain going to an alternate site that's larger to hold the public hearing and the Planning Board asked me to raise these issues with the Zoning Board this evening both on this application as well as the Leon application and get the input from the Zoning Board as to two points: one, whether they would entertain holding joint public hearings and two, whether the Zoning Board would consider participating in an in-person meeting for that purpose. With that there are some things to discuss, but I will pass that back to Chairperson Clemente.

Chair Clemente: Thank you for raising those issues. I appreciate that. I would find it a benefit to the applicant for convenience sake if the public hearings could be held at one location, one time and regards to the location, personally I don't have a problem with conducting a meeting in-person in regards to the pandemic crisis that we are under, that's my personal feeling. I would be interested in knowing how the other Zoning Board Members felt on this?

Member Curran: I am in agreement with that.

Member Schmidt: I'm fine with that

Member Mainello: I agree, in-person would be fine.

Chair Clemente: Thank you members, so Attorney Gilchrist please let the Planning Board Chairperson know that the Zoning Board will be in attendance for a joint public hearing on the 15th of October and will be considered a special zoning board meeting at that time where we will entertain the application from 394 Pinewoods Avenue, as a public hearing, and also the 660 Hoosick Road. Just one clarification to the applicant and to the Building Department on this application, where one of the two area variances being requested, just want to clarify that the encroachment for the primary structure for the front setback would be 21.2 feet instead of the documented 31.2 as on the letter, is that correct?

Chuck Golden: That is correct. That is 18.8 and the applicant was correct the "1" was not there, but that is 18.8. The house would be almost perpendicular to the road if it was actually 8 feet.

Chair Clemente: Thank you for that clarification Mr. Golden. Mr. Palmetto if you don't have any other questions, for us, you gave the Zoning Board members permission to visit the site. I thank you for waiting with us this night. I wish you a good night and we'll see you in October.

Mr. Palmetto: No problem, thank you very much, I appreciate it.

Chair Clemente: Thank you.

Member Schmidt: Where are we going to have the meetings? Anybody figure that out?

Attorney Gilchrist: That is still subject to discussion. That will be a discussion with the Planning Board Chair and Chairperson Clemente with me, to discuss location, certainly the date is set and the time of their meetings is 7 PM, it seems to make sense that Pinewoods public hearing would be first and that the Leon public hearing thereafter follow. But location is still to be determined. If it's concluded that the Town Hall will be adequate then it will be at Town Hall. But if there is any concern about the number of people, then we may consider an alternative location and that is something we have to discuss with the Chair and directly with the Town. Just so the members are aware, and you may be aware of this already, that the in-person meetings being held by the Planning Board and, for that matter, the Town Board do require protocols to be followed, masks must be worn, social distancing must be maintained, temperature checks are taken upon entering the building, information for contact tracing is taken, seats are marked that can be utilized and those that can't and the issue, just so the Zoning Board members are aware about the location for the meeting, is with the restrictions in place under the Executive Orders for occupancy for the Town Hall for meetings, there really is going to be a total, absent the Board members, a total of about 30 seats

available for the public. If there is any concern that there may be more than that number interested in either of these public hearings that may give rise to an alternate location but that subject to further discussion and you will be notified as to location.

Chair Clemente: Thank you very much. Moving on, 29 Norfolk Street, Thomas Sheehan. This is a property and residential district R9. Looking for setback for the rear. Do we have Mr. Sheehan with us tonight?

Pat Poletto: They have to un-mute.

Tom Sheehan: This is Tom Sheehan and my wife Angela here.

Chair Clemente: Hi, welcome, thank you for joining us tonight, this is Chairperson Clemente. Would you kindly present a brief overview of your project?

Tom Sheehan: We are trying to put a deck on and a pool directly behind our house and we had the plot surveyed and we found that we are short from the back setback line so we are looking for a variance to allow us to have this deck and pool put in the land behind us, that is in question, is an old cow pasture and that's the project.

Chair Clemente: OK, thank you very much. If I understand correctly, the rear setback, 20 feet, is required and 9 is being proposed. Looks like your application, Mr. Sheehan is complete for the purpose of holding a public hearing which we will do in October. Our next meeting of the Zoning Board of Appeals is October 19th, held at the, mostly likely to be held at the Town Office. Mr. Sheehan do you give permission to the Zoning Board members to visit the site?

Tom Sheehan: Yes I do.

Chair Clemente: Thank you very much. So in regards to time, potentially we have the Syracuse Hospitality Taco Bell showing up at the October meeting.

Member Curran: We also have 11 Riccardi.

Chair Clemente: Yes, thank you Member Curran, we also have 11 Riccardi Avenue. Could we safely say that Mr. Sheehan's application should be schedule for 6:30, how does that sound, Attorney Gilchrist, am I counting my ducks in the row here?

Attorney Gilchrist: You are indeed. 6:30 would be appropriate.

Chair Clemente: OK Mr. Sheehan, thank you very much, we'll look forward to seeing you on October 19th at 6:30.

Tom Sheehan: Thank you very much, I appreciate your time.

Chair Clemente: Great. If you have any questions, in the meantime, please feel free to communicate with Chuck Golden at the Building Department.

Tom Sheehan: I will. Thank you.

Chair Clemente: Thank you, goodnight now. Alright our next application is 1 Seneca Street, Zoning District R9, proposing a 4x20 deck. I believe we have, Andrew Sell on behalf of the property owner, James Lattimore. Are you with us tonight Mr. Sell?

Andrew Sell: Yes ma'am.

Chair Clemente: Hi. Welcome. Could you kindly present a brief overview of the project?

Andrew Sell: Well, they are proposing building a 4x20 attached deck to the current enclosed porch on the left side of the home as well as, a shed roof overhang covering the wooden deck on the opposite side of the home. The area is existing, non-conforming. Any proposed construction within the area needs to have an area variance to conform, I guess. I'm not 100% certain on all the legalities behind it, but that's basically my understanding of it.

Chair Clemente: Thank you. I understand the explanation that you gave. This applicant is requesting two area variances for front yard and for a side yard and as just described to us as a preexisting non-conforming primary structure. Thank you very much, we will hold a public hearing as your applications are complete and ready for public hearing, it will be at our October meeting which is October 19th, 2020 at 6:45. If there are any questions you should have before then, please feel free to contact Mr. Golden at the Building Department. Do you want, on behalf of the land owners, give the Zoning Board Members permission to view the site.

Andrew Sell: Yes ma'am.

Chair Clemente: Thank you so much. Have a good night and we'll see you in October. Moving on 29 Killock Avenue, Zoning District R9, there are two area variances being requested, a front setback times two. This is a corner lot. Penny Silliman, are you with us tonight?

Pat Poletto: I don't see her on my list of participants.

Chair Clemente: Did you see her at one point this evening?

Pat Poletto: Not sure to be honest with you. Because we've had people in and out all night.

Chair Clemente: Sure, no problem, I understand. Well we still have one more application, so if perhaps if Ms. Penny Silliman does come join the meeting, we'll certainly review her information, and if not we'll postpone this to the October meeting. Just so happens it would be at 7 o'clock, I'll put this aside knowing that we can always go back to it tonight if the applicant does join us. At 770 Hoosick Road, the applicant has two applications tonight, one is for a drive thru and the other is for parking space, I don't know which order the applicant wants to take it in, that's fine, which ever they prefer. Is there a representative for the application for the applicant, with us tonight?

Pat Poletto: Do we know the name of the person who would be doing it?

Attorney Rob Panasci: I see Jamie Easton is on, maybe he's on mute?

Pat Poletto: He is muted.

Attorney Rob Panasci: I could start until we hear from him. This, if you don't mind, could you go to the, is the screen sharing showing, I don't know why my face is only showing, are you showing the site plan right now?

Pat Poletto: Yes I am.

Attorney Rob Panasci: OK. What do I have to do to see that, oh there we go. The first application we can talk about is the one in orange. We, and Andy can correct me because I was not at the Planning Board meeting, the applicant is seeking a use variance in this area because the Planning Board has requested additional parking and this is going to be the location for more parking and where they are going to put some of the garbage enclosure and the Building Department determined that a use variance would be needed because this small little section, small lot, is not in the commercial district and it's one of those odd quote - unquote things where you don't have, you can do a parking lot for an accessory use in that district but this doesn't fit because it's not part of that district, so, we're in this weird situation where we need to seek a use various, because it's the use that's not consistent with the code. That in a nutshell is what we are seeking in reference to the use variance in that area. I don't know if anyone has any questions.

Jamie Easton: Rob, this is Jamie Easton from M.J. Engineering, can you hear me now?

Attorney Rob Panasci: Oh good. Ok. Go ahead

Jamie Easton: Sorry, I had technical issues. As Rob mentioned there is two area variances being requested for this project and one use variance. The area highlighted in pink, shown on your plan there, as Chuck has nicely, that's approximately 2000 sq. feet within the R9 zone that requires a use variance and an area variance, as part of the project, when you have a commercial zone abutting a residential zone, a 20 foot setback is required. Obviously, the parking area is within, completely within the R9 zone so we are asking for a 0 setback in regards to that, but obviously you can see the rest of the green space out there, that there is really a larger setback, it's just because of the zoning line. That's all grass, all part of the stormwater management system so it's not 0 feet from the property line. Everything highlighted in green is the property owner, it's just really the zoning line in this case. The other area variance we were requesting was previously approved by the board for Wendy's which up in front, right next to the existing Hoffman's Car Wash. The previous design had a pavement for the drive thru comes very close to the ROW line out in front, and that previous request was granted for the Taco Bell, but that area variance was granted for the drive thru. We are asking for the same area variance that was granted before as part of this project, but obviously a different tenant, just for that front setback. So those are the two area variances and the one use variance applied for this project. Later on as mentioned earlier this meeting, the signs and things like that for this project, at a different date, the sign applications for this project and for KFC and everybody else will be going into the board. We do have the numbers but that sign variance application is very premature to be put in front of any board because we don't even have site plan approval. So it's pointless to even ask for that small area variance that we would be requesting for that project. We could talk about that at a later date, but that's all the information that I'd like to talk about tonight.

Chair Clemente: Thank you Jamie for that update. I do want to echo what he said about the Building Department doing a fine job with this application working real hard on it. So just to recap, looking for an area variance for the drive thru because there is a front set back encroachment and with regards to the parking space, you're looking for both an area variance because of the set back and a use variance to be used as parking space because it's R9. So that sounds right. So this will go on the agenda for the Zoning Board of Appeals Special Meeting which will be held on October 15th, 2020 as a joint meeting with the Planning Board and it will be the 2nd item on the agenda as Mr. Palmetto's application will be entertained first. Any other comments at this time?

Attorney Gilchrist: We'll just confirm with the Zoning Board that it will be placed on the agenda for the Zoning Board Special Meeting which will be a joint meeting with the Planning Board for purposes of holding a joint public hearing with the Planning Board. The public hearing will be on the site plan, the Zoning Board public hearing will be on the three requested variances and that will be held jointly.

Chair Clemente: Sounds good. Well thank you very much.

Pat Poletto: Someone just signed in.

Chair Clemente: Could that be who we're looking for, Penny Silliman?

Chuck Golden: I did contact Ms. Silliman, she is currently at work and she was going to call in and hopefully that is her, I did give her the information for calling in. Let's see if she responds.

Penny Silliman: Hello this is Penny Silliman.

Chair Clemente: Hello, this is Ann Clemente, Chairperson of the Zoning Board. Thank you for joining us tonight. We have here your application for 29 Killock Avenue where you are seeking to variances.

Penny Silliman: Yeh, Yes.

Chair Clemente: It looks like a very well put together application, I just have a couple questions for you, Ms. Silliman, if you can hear me.

Penny Silliman: Yes I can.

Chair Clemente: Thank you. What is the name of the street that is perpendicular to Killock Avenue, the other side of the setback.

Penny Silliman: Ridgewood. I'm on a corner lot.

Chair Clemente: Where would you access the proposed accessory structure? From Killock or from Ridgewood?

Penny Silliman: From Killock.

Chair Clemente: And your proposing a Carolina Car Port, is that correct?

Penny Silliman: Yes.

Chair Clemente: Ok. It looks like your application is well put together with the help with our hard working Building Department, so for the purposes of public hearing the materials are complete and the Zoning Board of Appeals will meet in October on October 19, 2020 and one the agenda, you would be on about 7:15 pm.

Penny Silliman: OK. That's a Monday.

Chair Clemente: Yes, that's right, it is a Monday.

Penny Silliman: OK. Alright.

Chair Clemente: If you have any questions before then, please feel free to contact Mr. Golden at the Building Department.

Penny Silliman: OK. Alright.

Attorney Gilchrist: Chairman Clemente, let's review the time, maybe I'm missing something, but I had 7 o'clock.

Chuck Golden: I was going to ask about that too. The start for the 29 Killock will be 7:00 pm.

Chair Clemente: Thank you Mr. Golden, thank you for that clarification. Ms. Penny Silliman, we will see you at 7:00 o'clock on the 19th of October.

Chair Clemente: Is there any other new items of new business?

Chuck Golden: There is not any more new business.

Chair Clemente: Our next meeting is October 19, 2020 most likely will be in person, however, if it is via the Zoom Platform. The chair makes a motion to close the meeting, do a roll call vote.
Member Schmidt

Member Schmidt: Aye

Chair Clemente: Member Curran?

Member Curran: Aye

Chair Clemente: Member Mainello?

Member Mainello: Aye

Chair Clemente: Chair Clemente Aye. This concludes our meeting.