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STATE OF NEW YORK
CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
May 7, 2020 - 6:00 p.m.
Meeting held via Webex Video Conferencing

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B E F O R E:

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

P R E S E N T:

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

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PROCEEDINGS

THE CHAIRMAN: Ladies and gentlemen, the May 7th, 2020 Zoning Board of Appeals public hearing is now in session. Would the members introduce themselves starting with Mr. Giorgio.

MR. GIORGIO: Vincent Giorgio.

MR. LANDSMAN: Jeffrey Landsman.

MR. SINGH: Harry Singh.

MR. LOPEZ: Hector Lopez.

THE CHAIRMAN: Okay. I am Joseph Cianciulli, I am Chairman of the Board. Absent tonight is Ms. Pearson. There is one vacant. Also tonight with us is the Planning Commissioner, Planning Director, excuse me, Mr. Lee Ellman, and we have somebody representing the Building Department. We have Frank Longobardo and Mr. Mike Reape, and then we have our counsel which is Alain Natchev. We will have the Pledge of allegiance led by Mr. Landsman.

MR. LANDSMAN: Sure.

(Pledge of Allegiance.)

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PROCEEDINGS

THE CHAIRMAN: Thank you, Mr. Landsman, thank you. Well, we are going to start tonight. I am going to start with_-- I have some cases that are open so we are going to do this right now. We are going to start with Ms. Giris' case.

The first case is 5411A, it is to amend a condition at 70 Ashburton Avenue, Block: 2024, Lot: 42 in a BA Zone.

Is there anybody here tonight on that case? George, unmoot everybody. Anybody here on that case? Okay.

Is there anybody here on this case? No? Okay. Ms. Giris.

MS. GIRIS: I am here. My client wanted you to know I am here but no member of the public is going to speak.

THE CHAIRMAN: Do you have anything else to say to you before we close this case?

MS. GIRIS: The only thing I would like to share with the Board, as we

1 PROCEEDINGS

2 mentioned to you last month we were
3 before the Planning Board and we have
4 now received site plan approval for
5 those additional parking spaces on the
6 property, so we will have 107 parking
7 spaces which is in excess of what would
8 be required to make this a building
9 that is for both families and seniors.

10 THE CHAIRMAN: Thank you. Is
11 there anybody here tonight to speak in
12 favor of this application, 70 Ashburton
13 Avenue and Locust Hill Avenue.

14 Is there anybody here to speak on
15 this matter? Anybody to speak in
16 opposition? Any questions of the
17 Board? Okay. This case is hereby
18 closed.

19 Do I have a motion on this case?
20 This case is on 70 Ashburton Avenue.

21 MR. GIORGIO: Mr. Chairman.

22 THE CHAIRMAN: Yes, Mr. Giorgio.

23 MR. GIORGIO: Yes, I have a
24 motion.

25 THE CHAIRMAN: Okay.

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MR. GIORGIO: The property is approximately 37,500 square feet in size and located at the corner of Ashburton and Locust Hill Avenues.

The applicant purchased the property in November 2018 and wishes to amend Special Condition #7 of the Zoning Board's January 20, 2015 decision, Case #5411, to remove rental restrictions related to seniors and veterans. These restrictions were necessary to comply with off-street parking requirements at the time of the 2015 variance approval.

In order to provide additional parking at the site, the applicant has acquired 120 and 124 Locust Hill Avenue. The applicant intends to reconfigure parking spaces at 70 Ashburton Avenue and to construct 41 additional spaces at the Locust Hill properties so that there would be a total of 107 off-street spaces at the site.

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Mr. Chairman, I make a motion to rescind Special Condition #7 subject to the following conditions:

1. That the applicant must acquire and merge the lots at 120 and 124 Locust Hill Avenue with the property at 70 Ashburton Avenue;

2. That all existing structures at 120 and 124 Locust Hill Avenues shall be demolished and parking spaces shall be constructed as shown in the applicant's January 27, 2020 submittal;

3. That any repairs or replacement required by the City Engineer to the sidewalks or curbs in front of the properties at 70 Ashburton Avenue or 120 and 124 Locust Hill Avenue shall be repaired or replaced by the applicant prior to the Certificate of Occupancy being issued;

4. All expenses associated with these conditions shall be the responsibility of the owner;

5. That all other conditions of

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PROCEEDINGS

the Board's January 20, 2015 variance approval shall remain in effect.

THE CHAIRMAN: Thank you. Do I have a second? Mr. Singh, do you second that?

MR. SINGH: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Singh seconded?

MR. SINGH: Yes, Mr. Chairman.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant. Thank you.

We are going to take Ms. Giris' other case right now. I have to get it

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PROCEEDINGS

up. It will take me a minute. We'll go on from there.

The next case is case number 5684, it is the old Boyce Thompson up there. The address is 1086 North Broadway, Block: 3455, Lot: 66, an IP Zone.

I am going to make a motion to open this case. Well, it is open. Ms. Giris, do you have anything to say on that case?

MS. GIRIS: You have got our principal points. It sets forth the standards by which we believe we meet the criteria for an area variance and we await a decision this evening.

THE CHAIRMAN: You will get a decision right now. First of all, is there anybody here tonight on this case? It is up on North Broadway between Executive Boulevard and Odell Terrace. Anybody here tonight on this case?

Okay, I am going to make a motion to close the case. Do I have a second?

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PROCEEDINGS

MR. GIORGIO: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant. Thank you.

THE CHAIRMAN: Okay, this case is hereby closed. I am going to ask for a decision on this case. Mr. Singh.

MR. SINGH: Yes, Mr. Chairman. Mr. Chairman, case number 5684, area variance, Janet Giris_--

THE CHAIRMAN: Start with "This case was before the ZBA." Go ahead.

MR. SINGH: This is an appeal by

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2 Boyce Thompson Center from the denial
3 on file from the Department of Housing
4 and Buildings, dated December 23, 2019.

5 The two signs proposed: one on the
6 south side, for ENT and Allergy
7 Associates, and other one, and one on
8 the north side for the Columbian
9 doctors. The signs are 71 inches width
10 and 16 and half inches tall.

11 This case was before the ZBA on a
12 number of prior occasions in connection
13 with this site and the sign
14 regulations.

15 This property is located in an IP
16 district, and while the district was
17 inactive, it didn't anticipate the need
18 for signage for those buildings.

19 At the time when the City of
20 Yonkers first enacted new regulations
21 covering the Boyce Thompson site, it
22 didn't modify the sign regulations to
23 coincide with the addition of the
24 future additional buildings on the
25 particular site. As such, Mr.

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PROCEEDINGS

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

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

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

The requested variance is minimal in nature given the size and scope of the project and will not create any undesirable changes in the character of the neighborhood nor will it have any detrimental effects to nearby properties. Rather, it will be enhancing the character of the neighborhood.

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The granting of the variance will provide signage that will enable the second floor tenants to identify the accurate entrance to access the second floor, which ensures the viability of the second floor tenants and businesses on the property.

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

The benefit sought by the applicant cannot be achieved by another alternate more feasible method other than the requested area variance. The IP District regulations did not initially contemplate mixed use development with multiple tenants such as with this project. Therefore, there is not feasible method available to the applicant to achieve its benefit without the requested Zoning Board of Appeals variance approvals.

PROCEEDINGS

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2 3. Whether the requested variance
3 is substantial. The requested area
4 variance is not substantial and as
5 previously stated, the IP District
6 regulations did not initially
7 contemplate mixed use developments with
8 multi-tenanted buildings. As a result,
9 the existing regulations do not address
10 wall signage necessary for development
11 like the project.

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

18 The requested variance will not
19 have an adverse effect or impact on the
20 environmental conditions of the
21 neighborhood. As stated above, the
22 variance is to permit the installation
23 of two (2) additional wall signs that
24 will permit the second floor tenants of
25 the property to be identified, which is

1 PROCEEDINGS

2 necessary for their patrons.

3 The variances will not adversely
4 affect any existing natural
5 environmental characteristics such as
6 water use, energy use, drainage,
7 run-off, lighting, odors, visual or
8 other nuisance conditions.

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

15 The alleged difficulty may have
16 not been self-created. By virtue of
17 the applicant's constructive knowledge
18 of the zoning requirements, it is
19 possible that the applicant had actual
20 or constructive knowledge of the
21 requirements of the Zoning Ordinance.
22 However, the self-created hardship rule
23 is merely one consideration guiding the
24 Board's review and does not necessarily
25 bar the granting of the variances.

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

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

2. That if any back real estate taxes and or fines if owned be paid in full within 45 days of this hearing and proof must be submitted to this Board.

3. These conditions shall be on the Certificate of Occupancy or completion, and the applicant and/or property owner shall permit inspections at the discretion of the City's Department of Housing and Buildings at least once every calendar year for the purpose of determining that the conditions are being satisfied.

Thank you, Mr. Chairman.

THE CHAIRMAN: You are welcome.

Do I have a second on the motion?

MR. GIORGIO: Second.

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THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant. Thank you.

The next case for Ms. Giris is 5685, an area variance at 208 Willow Street, Block: 462, Lot: 25 in an M Zone.

First off, Ms. Giris, do you have anything else to say about this case? Ms. Giris?

MS. GIRIS: No, I have nothing further to add. As I mentioned last month, this is an investment in

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Municipal Housing Authority property, the senior building, and they are looking to make some improvements to improve the ADA acceptability at the building, and in order to provide ADA compliant handicapped spaces, we are seeking a variance.

We thought that was more important than to lose regular parking spaces.

THE CHAIRMAN: Okay. Is there anybody here tonight to speak in favor of this application? Is there anybody here tonight to speak in opposition? All right, I make a motion to close this case. Do I have a second?

MR. LANDSMAN: I second it.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

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THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

Do I have a motion on this case?

MR. GIORGIO: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Giorgio, proceed, please.

Case number 5685 Area Variance Janet Giris Esq, and Alphonse Diaz, R.A., on behalf of the Municipal Housing Authority of the City of Yonkers, owner, for the expansion of existing parking lot, whereas parking within the minimum front yard not permitted, Section 43-133.A.1, 15 feet required, 11 feet 4 inches provided, exceeding maximum permitted height of a fence in the front yard Section 43-41.D.3.A, maximum permitted is 4 feet 0 inches, 6 feet provided along Oak Street and the north side of

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property line at Willow Street, on premises known as 208 Willow Street, Block: 462, Lot: 25, Zone M.

The subject property is a senior housing facility and associated parking located on the east side of Willow Street just south of the intersection with Mt. Carmel Place. The applicant is proposing improvements to the parking area to comply with handicap accessibility requirements.

Reconfiguration of the lot to accommodate the proposed improvements requires expansion into the frontyard setback.

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

In approving these variances the Zoning Board of Appeals has taken into

1 PROCEEDINGS

2 consideration the hardship faced by the
3 applicant as weighed against the
4 detriment to the health, safety, and
5 welfare of the neighborhood and
6 community.

7 Specifically, in making its
8 determination, the Board has considered
9 the following:

10 One: Whether the benefit sought
11 by the applicant can be achieved by
12 other feasible means. The area
13 surrounding the property is built out
14 so that alternatives to the variances,
15 such as acquiring additional land or
16 alternate site layouts, are not
17 feasible.

18 Two: Whether granting the
19 requested variances would result in an
20 undesirable change in neighborhood
21 character or a detriment to nearby
22 properties. The proposed changes to
23 the parking area would not create an
24 undesirable change to the neighborhood.
25 The expansion of the lot is minor and

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would greatly improve accessibility for seniors who live in the building.

Three: Whether the requested variances are substantial. The requested variances are not substantial numerically or in their impact. The change in size of the lot is minor and would have increased accessibility for building residents.

Four: Whether the variances will have negative affects to physical or environmental conditions in the neighborhood. The proposed action would not result in any significant impacts to impervious surfaces, drainage, vegetation, air, light or nuisance conditions compared to existing conditions.

Five: Whether the alleged difficulty is self-created. The hardship is not self-created but is due to accessibility requirements and development at the site and on adjacent properties.

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In granting this variance the Board imposes the following conditions:

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

2. Any repairs or replacement required by the City Engineer to the sidewalks or curbs in front of the property on Willow Street shall be repaired or replaced by the applicant prior to the Certificate of Occupancy being issued;

3. The applicant shall address the items listed in the City Engineer's memorandum to the Board dated February 14, 2020, to the satisfaction of the City's Engineering Department;

4. These conditions shall be specified on the Certificate of Occupancy and the owner shall permit periodic inspections at the discretion of the City of Yonkers, Department of Housing and Buildings, at least once

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every calendar year to determine that the conditions are being satisfied;

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

6. All expenses associated with these conditions shall be the responsibility of the owner.

Thank you.

THE CHAIRMAN: Thank you. Do I have a second on the motion?

MR. LOPEZ: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The

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Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

Thank you, Ms. Giris, you are finished for the night.

MS. GIRIS: Thank you, Mr. Chairman, appreciate it.

THE CHAIRMAN: We will have a decision tonight on 5668, that is Mr. Veneruso on Bronx River Road. We'll have a decision tonight on 5676 on Nepperhan Avenue. We'll not have a decision tonight on 5677. We will have a decision on 5679, 74 Morningside Avenue. We'll have a decision tonight on 56 Prospect Street. We will have a decision tonight on the charter school on Warburton Avenue. We'll not have a decision tonight on 5686, 2-10 Tuckahoe Road. We'll have a decision on 5687 Midland Avenue. We'll have a decision tonight on 5691 Saratoga Avenue and we'll have a decision tonight on 5694, McLean Avenue, so I am going to make a

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motion that we put over case number 5677, 775 Saw Mill River Road. We'll come back on the 19th. We'll probably have a decision on that and also on case 5686, 2-10, Tuckahoe Road. Do I have a second, please?

MR. GIORGIO: I second it.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant. Thank you.

We'll get rid of some of the smaller ones here. We have a case on 5691, area variance, 94 Saratoga

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Avenue, Block: 36, Lot: 30.31 in an M Zone. Do I have a motion, please. Wait a minute, I have to close that hearing, just one second, please.

Case 5691, 94 Saratoga Avenue, Block: 36, Lot: 30.31 in an M zone. Mr. Luis, are you here?

MR. LEDER-LUIS: Yes, sir, Mr. Chairman, I am here.

THE CHAIRMAN: Do you have anything more to say to us.

MR. LEDER LUIS: No, Mr. Chairman.

THE CHAIRMAN: Okay. That's fine. Is there anybody here tonight-- go ahead, you want to say something? No? Okay. Is there anybody here tonight on this case. This case is over on Saratoga Avenue up off Lawrence Street and Carol Avenue. Is there anybody who wants to say something? Anybody here in favor? Anybody here against? Okay. Any questions of the Board? Okay.

I am going to make a motion to close this case, do I have a second?

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MR. SINGH: Second.

THE CHAIRMAN: On the motion to close the case, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant, so this case is closed. Now we are going to have a decision. Do I have a decision on 5691.

MR. LANDSMAN: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Landsman.

MR. LANDSMAN: Thank you.

I make a motion to approve the request for an area variance, subject to conditions, based on facts,

1 PROCEEDINGS

2 findings, information and testimony
3 presented to this Board at the public
4 hearing, site visits by members of the
5 Zoning Board and otherwise obtained.

6 The subject property in question
7 is on the east side of Saratoga Ave
8 between Caryl Avenue and Landscape
9 Avenue. This part of the street has
10 all multi-family homes that cater to
11 the local area.

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

20 In order to grant an area variance
21 the Board must be satisfied on five
22 points of law:

23 1. Whether undesirable changes
24 will be produced in the neighborhood or
25 a detriment to nearby properties will

1 PROCEEDINGS

2 be created by granting of the area
3 variance.

4 The Zoning Board has visited the
5 site multiple times and finds there is
6 no apparent detriment to the
7 neighborhood in granting this variance.
8 The wall will be at the rear of this
9 vacant lot and most of it will be
10 behind the new building when it is
11 built, leaving it mostly not seen from
12 the street.

13 2. Whether the benefit sought by
14 the applicant or owner can be achieved
15 by some other method feasible for the
16 applicant or owner to pursue other than
17 the area variance.

18 The benefit sought cannot be
19 achieved by any other means. The wall
20 is needed due to the topography of the
21 lot. The lot is sloped from front to
22 rear.

23 3. Whether the requested variance
24 is substantial. While the variance
25 itself is substantial, its effect would

1 PROCEEDINGS

2 be minor since the wall will have
3 limited visibility from the street.
4 It's the position of the Board that
5 this fact does not preclude the
6 granting of the variance for the
7 reasons cited above.

8 4. Whether the proposed variance
9 will have an adverse effect on the
10 physical or environmental conditions of
11 the neighborhood or district. There
12 will be no adverse physical or
13 environmental impact on the
14 neighborhood.

15 The applicants are proposing this
16 wall prior to a new building on the
17 site. With the conditions imposed by
18 this Board, this variance should do
19 nothing to negatively alter the quality
20 of life in the neighborhood.

21 5. Whether the alleged difficulty
22 is self-created. The difficulty is not
23 self-created. The slope of the land
24 has created the need for the extra
25 height of the wall.

1 PROCEEDINGS

2 The Board imposes the following
3 conditions:

4 1. All health, safety, fire,
5 building and environmental codes shall
6 be adhered to at all times by the
7 applicant and/or owner.

8 2. If any sidewalk or curbs
9 directly in front of parking area are in
10 need of repair or replacing as per the
11 City Engineer, then the applicant and
12 or owner must make repairs or replace
13 before the certificate of completion is
14 issued.

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

18 4. These conditions shall be
19 listed on the Certificate of Occupancy
20 and the applicant and/or tenant shall
21 permit inspections at the discretion of
22 the Department of Housing and
23 Buildings, City of Yonkers, at least
24 once per year to determine that
25 conditions are being met.

1 PROCEEDINGS

2 5. Should the applicant and/or
3 tenant not comply with, breach or
4 violate any of these conditions at any
5 time, the area variance is hereby
6 rescinded and the Zoning Board
7 authorizes the City of Yonkers
8 Department of Housing and Buildings to
9 take appropriate action.

10 6. All expenses associated with
11 these conditions shall be the
12 responsibility of the applicant.

13 7. Proper drainage shall be
14 installed as per the City Engineer and
15 the Department of Housing and
16 Buildings, City of Yonkers.

17 8. The property shall be kept free
18 and clear of all debris at all times.

19 Thank You, Mr. Chairman.

20 THE CHAIRMAN: You are welcome,
21 Mr. Landsman. Do I have a second on
22 motion?

23 MR. LOPEZ: Second.

24 THE CHAIRMAN: On the motion, Mr.
25 Giorgio.

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MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

MR. LEDER-LUIS: Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you. Be well too.

The next one is an area variance, 5694, Cullen and Dykman on behalf of the Church of St. Denis on 121 McLean in an A Zone.

I am going to make a motion to close this hearing. This is open. Hold on. Is the lawyer for St. Denis in the room?

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MR. WASSEL: Thomas Wassel from Cullen and Dykman.

THE CHAIRMAN: Do you have anything else?

MR. WASSEL: No, Mr. Chairman, we made our presentation at the last meeting. I have nothing further to add.

THE CHAIRMAN: Thank you. Is there anybody here on this case? This case is on McLean Avenue, Lawrence Street, St. Denis Church, takes in a full block. Is there anybody here tonight on this case? Anybody in favor of it? Anybody against? Okay, I am going to make a motion to close this case. Do I have a second, please.

MR. LOPEZ: Second.

THE CHAIRMAN: On the motion to close the case, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

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THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

Now I am going ask for a motion on this case. Do I have a motion on this case?

MR. GIORGIO: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Giorgio, please.

Case number 5694, 121 McLean Avenue, Block: 114, Lot 8, 13.14, 15.17, and 18.25, Zone A.

The subject property is the site of St. Denis Church which consists of a church, school, and other ancillary structures, which have been closed for several years.

The applicant is seeking to reapportion the lots located on the

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property in conjunction with the sale of part of the property to the City of Yonkers.

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

In approving these variances the Zoning Board of Appeals has taken into consideration the hardship faced by the applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood and community.

Specifically, in making its determination, the Board has considered the following:

1. Whether the benefit sought by the applicant can be achieved by other feasible means.

The area surrounding the property

1 PROCEEDINGS

2 is built out so that alternatives to
3 the variances, such as acquiring
4 additional land or reconfiguring
5 existing structures, would not be
6 feasible.

7 As testified, the applicant cannot
8 configure or otherwise relocate or
9 position the proposed lot lines to
10 eliminate the need for the variance
11 required while achieving the desired
12 result.

13 2. Whether granting the requested
14 variances would result in an
15 undesirable change in neighborhood
16 character or a detriment to nearby
17 properties.

18 The buildings at the site have
19 existed for many decades with no known
20 issues and no additional work is being
21 proposed. Insufficient setbacks
22 relative to the lot width, side yards
23 and rear yards are associated with
24 reapportionment and there will be no
25 visible change affecting the

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neighborhood. No changes in use are contemplated.

3. Whether the requested variances are substantial. While the variances may appear numerically substantial, the Board finds they are not substantial under the circumstances of this application or in their impacts to the neighborhood as previously described.

4. Whether the variances will have negative effects to physical or environmental conditions in the neighborhood.

No redevelopment is contemplated by the applicant so the variances would not result in any significant impacts with regard to vegetation, impervious surfaces, drainage, air, light or nuisance conditions when compared to existing conditions.

5. Whether the alleged difficulty is self-created. The hardship is not self-created, but due to the inability of the applicant to include the church

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itself in the sale of the property,
this is necessitating reapportionment.

In granting this variance the
Board imposes the following conditions:

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

2. All expenses associated with
these conditions shall be the
responsibility of the owner.

Thank you.

THE CHAIRMAN: You are welcome.
Do I have a second on the motion?

MR. SINGH: For the motion.

THE CHAIRMAN: Do I have a second
on the motion.

MR. SINGH: Second.

THE CHAIRMAN: On the motion, Mr.
Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for
the motion.

MR. LANDSMAN: For the motion.

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THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant. Thank you.

MR. WASSEL: Thank you, Mr. Chairman, and members of the Board. Have a good evening.

THE CHAIRMAN: Thank you.

Next one we are going to take is 5683, it is Andrew Romano on behalf of the Charter School, 220, also known as 260 Warburton Avenue. This case is hereby continued. Mr. Romano, are you here?

MR. KUNTZ: It doesn't look like he is here.

THE CHAIRMAN: Okay. I will go through with it anyway, case 5684. Anybody here tonight on this case? This case is the Charter School on

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Warburton Avenue. Anybody here tonight on this case to speak in favor of it or against it? Okay, I make a motion to close this case. Do I have a second?

MR. LANDSMAN: I second it.

THE CHAIRMAN: Okay. Mr. Giorgio, we made a motion to close the case.

MR. GIORGIO: For the motion, Mr. Chairman.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

THE CHAIRMAN: This case is hereby closed. Do I have a motion on this case?

MR. LOPEZ: Yes, Mr. Chairman.

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THE CHAIRMAN: Mr. Lopez, please.

MR. LOPEZ: Yes, Case 5683, Area Variance. Mr. Chairman, I make a motion to approve the requested area variance subject to conditions, based on facts, findings, information, and testimony presented to this Board at the public hearing, site visits by members of the Zoning Board of Appeals, or otherwise obtained.

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

1. That the benefit sought cannot be achieved by other feasible means. As testified, the variance cannot be obviated because it is based on the existing topography which created the height variance for the wall. The wall

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2 and the fence are adjoining the
3 athletic field in which having the
4 fence would provide added safety for
5 the students.

6 2. Granting the requested variance
7 would not result in an undesirable
8 change in neighborhood character or a
9 detriment to nearby properties. In
10 addition, as indicated on the traffic
11 report, there is no traffic impact on
12 the area as a result of this project.

13 3. That while the requested wall
14 variance may be substantial in nature,
15 it is needed for the future of the
16 proposed athletic field to prevent
17 balls from going over the fence and
18 onto the street. As testified, the
19 parking varianceS are minor in nature
20 and still provide safe parking. The
21 Board does not believe that they will
22 have any negative effect with regard to
23 any potential impacts, as noted herein.

24 4. That the variances will not
25 have negative impact to physical or

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environmental conditions in the neighborhood because the premises is in a proper use for this zone.

Furthermore, as indicated on the traffic report, there is no traffic impact in regards to this project.

5. The hardship is not self-created because it is based on the original geographic location and size of the premises which caused the variance. This factor is merely one consideration and does not preclude the Board from granting the application.

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

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

2. The proposal submitted to the Board be adhered to.

3. Any changes in use shall come back to the Zoning Board of Appeals for further consideration and decision;.

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

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

6. All expenses associated with these conditions shall be the responsibility of the owner.

Thank you, Mr. Chairman.

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

MR. GIORGIO: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

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MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

The next case is going to be Mr. Romano again. Mr. Romano, are you here, sir? Okay. We'll take it up. The next case is 5679, area variance, 74 Morningside Avenue. This case does not have to be closed. This case was closed already. I am pretty sure of that. Just in case I will make a motion to close this case. Do I have a second?

MR. GIORGIO: Second.

THE CHAIRMAN: All right. On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for

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the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The
Chairman votes for the motion. The
motion is carried, five in favor, one
absent, one vacant. Thank you.

We have a decision on 5679
Morningside Avenue.

MR. SINGH: Yes, Mr. Chairman.

The premises are a legal four (4)
family dwelling with a store which the
applicant has possessed since 2007. The
applicant seeks to continue to
reconstruct the building by converting
the store to a three (3) bedroom
apartment. Though, because the
premises are in an M Zone, the
non-conforming store use was considered
abandoned and therefore the parking
credit of six spaces could not be used

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for the conversion which would have avoided the need for a variance. Consequently, this appeal to the Yonkers Zoning Board of Appeals has ensued.

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

In order to grant an Area Variance, the Board must be satisfied on five points of law.

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

The granting of these area variances will not produce any undesirable changes in the character of

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2 the neighborhood and will not be a
3 detriment to nearby properties.
4 Because the applicant is not changing
5 the exterior, and the apartment would
6 be in compliance with the M Zone and
7 the surrounding area which is mainly
8 multifamily apartment dwellings.

9 2. Whether the benefit sought by
10 the applicant cannot be achieved by
11 some other method feasible for the
12 applicant to pursue, other than area
13 variance.

14 The benefit sought by the
15 applicant cannot be achieved by another
16 alternate more feasible method in order
17 for the applicant to restructure the
18 building by transforming the store to a
19 three (3) bedroom apartment. Therefore,
20 there is no feasible method available
21 to the applicant without the requested
22 ZBA variance approvals.

23 3. Whether the requested variance
24 is substantial. The requested area
25 variances are not substantial because

1 PROCEEDINGS

2 the only variance requested is for one
3 parking space. Actually there would be
4 a reduced parking space if the premises
5 did not lose its non-conforming status
6 because the store was permitted to six
7 spaces.

8 The requested variances will have
9 no adverse impact on the neighborhood.
10 Under the circumstances of this
11 application, there will be no
12 detrimental effect to the immediate
13 surrounding area.

14 4. Whether the granting of the
15 area variance to allow for the proposed
16 improvement will have an adverse effect
17 or impact on condition on the physical
18 or environmental conditions in the
19 neighborhood or district.

20 The requested variances will not
21 have an adverse effect or impact on the
22 environmental conditions of the
23 neighborhood for the reasons since the
24 planned structure will not change.
25 Hence, it will not adversely affect any

1 PROCEEDINGS

2 existing natural environmental
3 appearances such as water use,
4 pollution, energy use, drainage,
5 run-off and flooding, nor create any
6 noise, light odor, visual or other
7 nuisance conditions.

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

14 The alleged difficulty is, in
15 fact, not self-created, but based upon
16 an existing structure that was before
17 the zone change.

18 By virtue of the applicant's
19 constructive knowledge of the zoning
20 requirements, it is possible that
21 applicant had actual or constructive
22 knowledge of the requirements of the
23 Zoning Ordinance. However, the
24 self-created hardship rule is merely
25 one consideration guiding the Board's

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review and does not necessarily bar the granting of the variances.

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

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

2. All curbs and/or sidewalks abutting the property that need repairing or replacement as per the City of Yonkers Department of Engineering, then the repair or replacements must be done before Certificate of Occupancy is issued.

3. That if any back real estate taxes and or fines are owed, it be paid in full within 45 days of this hearing and proof must be submitted to this Board.

4. There will be a sprinkler system installed in all common areas of the dwelling units and fire carbon

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monoxide detectors and a 24 hour monitoring system hooked up such an ADT.

5. These conditions shall be on the Certificate of Occupancy, and the applicant and/or property owner shall permit inspections at the discretion of the City's Department of Housing and Buildings, at least once every calendar year, for the purpose of determining that the conditions are being satisfied.

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

7. All expenses associated with these conditions shall be the sole responsibility of the applicant and/or property owner.

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Thank you Mr. Chairman.

THE CHAIRMAN: You are welcome.
Do I have a second on the motion?

MR. LANDSMAN: Second.

THE CHAIRMAN: On the motion, Mr.
Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for
the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The
Chairman votes for the motion. The
motion is carried, five in favor, one
absent, one vacant. Thank you.

The next case we are going to take
up is case number 5676. I am going to
make a motion. This one I think we
left open. I am not going to take a
chance. Is there anybody here tonight
on this case, 5676, 1055 also know as

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1061 Nepperhan Avenue, it is a gas station.

MR. GIBBONS: James Gibbons, engineer, present.

THE CHAIRMAN: Okay, Mr. Gibbons, I swore you in the last time. You are still under oath, do you understand.

MR. GIBBONS: I understand, sir.

THE CHAIRMAN: Okay. Do you have anything else to say to us now before we make the motion on the this tonight?

MR. GIBBONS: No, sir, everything was covered previously.

THE CHAIRMAN: Okay. Is there anybody here tonight on this case? This case is on Nepperhan Avenue just north of the entrance to the Saw Mill River Parkway south and just south of Cross Hill Avenue. Is there anybody here tonight on this case in favor of it, against it? Thank you. Is there any questions from the Board? Okay.

I make a motion to close this case. Do I have a second?

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MR. GIORGIO: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The case is hereby closed. The motion is carried, five in favor, one absent, one vacant.

Do I have a motion on this case?

MR. SINGH: Yes, 5676. Per application and principal points on file provided by James A. Gibbons, P.E, this property is currently used as a gas station, a convenience store and a repair garage.

This business has been owned by

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2 the Mitter family since 1986 and within
3 its current footprint the applicant
4 would like to remove the repair station
5 business, demolish the building and
6 provide for a brand new building that
7 will fit within the required setbacks.
8 The current configuration has one pump
9 island and would like to put another
10 one in.

11 The existing pump island is
12 outside the front yard setback and it
13 is an established structure and the
14 applicant would like to keep it where
15 it is while providing for another pump
16 island which will exist within the
17 necessary setbacks.

18 The current Parking configuration
19 is essentially nonconforming and the
20 applicant would like to continue the
21 non-conformity with existing parking
22 which is the basis for the applicant
23 requesting the parking variance.

24 The applicant has substantially
25 revised its initial plans based upon

1 PROCEEDINGS

2 the Board's review and the City's
3 Engineering and Planning Departments
4 comments.

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

13 In order to grant an area
14 variance, the Board must be satisfied
15 on five points of law.

16 1. Whether an undesirable change
17 will be produced in the character of
18 the neighborhood or the granting this
19 variance will create a detriment to
20 nearby properties.

21 The proposed rebuilt gas station
22 and convenience store will not change
23 the character of the neighborhood since
24 the business is already existing and
25 will continue to function in the same

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2 manner. The only exception is that the
3 automobile repair portion of the
4 business will be removed. Therefore,
5 the granting of these area variances
6 will not produce any undesirable
7 changes in the character of the
8 neighborhood and will not be a
9 detriment to nearby properties.
10 Rather, it will be enhancing the
11 character of the neighborhood.

12 2. Whether the benefit sought by
13 the applicant cannot be achieved by
14 some other method feasible for the
15 applicant to pursue, other than an area
16 variance.

17 The benefit sought by the
18 applicant cannot be achieved by another
19 alternate more feasible method in order
20 for the applicant to rebuild the gas
21 station with a retail store.

22 The property currently serves as a
23 gas station, retail store and
24 automobile repair shop. The applicant
25 has been running this business since

1 PROCEEDINGS

2 1986 and wishes to continue to maintain
3 the essence of his business at this
4 property location.

5 The parking variance is necessary
6 to achieve the requested renovation.
7 Therefore, there is no feasible method
8 available to the applicant to achieve
9 its benefit without the requested ZBA
10 variance approvals.

11 3. Whether the requested variance
12 is substantial. The requested area
13 variances are not substantial since the
14 non-conforming business currently
15 exists now. The parking variance is
16 required to maximize client parking
17 with little impact to the proposed
18 interior traffic flow of the business.

19 4. Whether the granting of the
20 area variance to allow for the proposed
21 improvement will have an adverse effect
22 or impact on the condition or the
23 physical or environmental conditions in
24 the neighborhood or district.

25 These proposed variances requested

PROCEEDINGS

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2 will not alter the current physical and
3 environmental effects to the
4 neighborhood. The requested parking
5 variance will allow for better gasoline
6 tank placement and a detection system.
7 The completion of this project will be
8 much more environmentally friendly as
9 new gasoline tanks and safety systems
10 are being installed.

11 The requested variances will not
12 have an adverse effect or impact on the
13 environmental conditions of the
14 neighborhood for the reasons previously
15 stated. The variances will not
16 adversely affect any existing natural
17 environmental characteristics such as
18 water use, energy use, drainage,
19 run-off, lighting, odors, visual or
20 other nuisance conditions.

21 5. Whether the alleged difficulty
22 was self-created which consideration
23 shall be relevant to the decision to
24 the ZBA but shall not necessarily
25 preclude the granting of the area

1 PROCEEDINGS

2 variance.

3 The alleged difficulty may have
4 been self-created. The applicant
5 wishes to enhance the obsolete gasoline
6 and convenience store business with a
7 more modern, environmentally friendly
8 business. Therefore, the requested
9 parking variance will provide the means
10 for the applicants to achieve these
11 objectives for the facility of his
12 patrons by providing the additional
13 parking.

14 By virtue of the applicant's
15 constructive knowledge of the zoning
16 requirements, it is possible that the
17 applicant had actual or constructive
18 knowledge of the requirements of the
19 Zoning Ordinance. However, the
20 self-created hardship rule is merely
21 one consideration guiding the Board's
22 review and does not necessarily bar the
23 granting of the variances.

24 Mr. Chairman, in granting these
25 variances the Board imposes the

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following conditions:

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

2. All curbs and sidewalks that need repairing or replacement as per the City of Yonkers Department of Engineering, then the repair or replacements must be done before Certificate of Occupancy or completion is issued.

3. That if any back real estate taxes and or fines, if owed, be paid in full within 45 days of this hearing and proof must be submitted to this Board.

4. A fire and carbon monoxide smoke detector system shall be installed throughout the entire premises and connected to an outside 24-hour monitoring system.

5. Handicap parking required per NY State Code.

6. Handicapped assistance

1 PROCEEDINGS

2 notification shall place on each pump
3 to call the convenience store telephone
4 number.

5 7. These conditions shall be on
6 the Certificate of Occupancy or
7 completion, and the applicant and/or
8 property owner shall permit inspections
9 at the discretion of the City's
10 Department of Housing and Buildings at
11 least once every calendar year for the
12 purpose of determining that the
13 conditions are being satisfied.

14 8. There will be no car wash
15 allowed at the Gas station.

16 Should the applicant and/or
17 property owner not comply with, breach
18 or violate any of these conditions at
19 any time the approval of these
20 variances is hereby rescinded and
21 authorizes the City's Department of
22 Housing and Buildings to take
23 appropriate action.

24 9. Hours of operation shall be
25 from 6:00 a.m. to 12:00 midnight.

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PROCEEDINGS

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

Thank you Mr. Chairman.

THE CHAIRMAN: You are welcome, sir. Do I have a second on the motion?

MR. GIORGIO: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

The next case is 5687, 855 Midland Avenue, Block: 5054, Lot: 31 in a B

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PROCEEDINGS

Zone. Do I have a motion, please.

MR. LANDSMAN: Case number 5687.

I make a motion to approve the request for an area variance, subject to conditions, based on facts, findings, information and testimony presented to this Board at the public hearing, site visits by members of the Zoning Board and otherwise obtained.

The subject property in question is on the north Side of Midland Avenue, corner of Smart Avenue.

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

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

1. Whether undesirable changes

1 PROCEEDINGS

2 will be produced in the neighborhood or
3 a detriment to nearby properties will
4 be created by granting of the area
5 variance.

6 The Zoning Board has visited the
7 site multiple times and finds there
8 will be no undesirable change in the
9 neighborhood, which is a long-standing
10 mixed use urban shopping area, in
11 granting this variance.

12 While parking is limited due to
13 the age of the urban neighborhood, the
14 City Planning Director has indicated
15 that the area businesses, historically,
16 have not had significant traffic
17 issues.

18 The proposed use, a luncheonette,
19 will be replacing a pharmacy at the
20 site. While parking is at high demand,
21 the fact that the luncheonette will be
22 usually closed by 4 p.m. as stated by
23 the applicant, it should not exacerbate
24 area parking demand later in the day
25 and at night.

1 PROCEEDINGS

2 2. Whether the benefit sought by
3 the applicant or owner can be achieved
4 by some other method feasible for the
5 applicant or owner to pursue other than
6 the area variance.

7 The benefit sought cannot be
8 achieved by any other means. As stated
9 by Mr. James Dibbini, Esq., at the
10 February 18th 2020 hearing, the
11 proposed tenant is short nine spaces to
12 open their business and cannot acquire
13 them anywhere in close proximity to the
14 subject premises.

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

24 4. Whether the proposed variance
25 will have an adverse effect on the

1 PROCEEDINGS

2 physical or environmental conditions of
3 the neighborhood or district.

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

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

15 5. Whether the alleged difficulty
16 is self-created. The difficulty is
17 self-created, as the applicants should
18 have been aware of the zone district
19 area requirements when it acquired the
20 subject premises. However, this factor
21 alone does not preclude the Zoning
22 Board of Appeals from granting this
23 area variance.

24 The Board imposes the following
25 conditions:

PROCEEDINGS

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2 1. All health, safety, fire,
3 building and environmental codes shall
4 be adhered to always by the applicant
5 and/or owner.

6 2. If any sidewalk or curbs
7 directly surrounding the property are
8 in need of repair or replacing, as per
9 the City Engineer, then the applicant
10 and or owner must make repairs or
11 replacements before the Certificate of
12 Completion is issued.

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

16 4. These conditions shall be
17 listed on the Certificate of Occupancy
18 and the applicant and/or tenant shall
19 permit inspections at the discretion of
20 the Department of Housing and
21 Buildings, City of Yonkers, at least
22 once per year to determine that
23 conditions are being met.

24 5. Should the applicant and/or
25 tenant not comply with, breach or

1 PROCEEDINGS

2 violate any of these conditions at any
3 time, the variance is hereby rescinded,
4 and the Zoning Board authorizes the
5 City of Yonkers Department of Housing
6 and Buildings to take appropriate
7 action.

8 6. All expenses associated with
9 these conditions shall be the
10 responsibility of the applicant.

11 7. Fire, smoke and carbon monoxide
12 detectors shall be installed and hard
13 wired throughout the building and
14 connected to an outside 24 hour
15 monitoring system such as ADT.

16 8. Garbage shall be picked up only
17 during the hours of 8:00 a.m. to 4:30
18 p.m. Monday through Friday.

19 9. Hours of operation shall be
20 6:00 a.m. to 4:00 p.m. daily.

21 Thank You.

22 THE CHAIRMAN: Thank you. Do I
23 have a second on the motion as amended,
24 please.

25 MR. GIORGIO: Second.

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THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

The next case we have tonight, we have two more decisions to make, we have Yonkers Avenue and we have Prospect Street. Mr. Veneruso, which one do you want first?

MR. ACCINELLI: Prospect Street, Mr. Chairman.

THE CHAIRMAN: Is your name Veneruso?

MR. VENERUSO: Mr. Chairman, I am

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PROCEEDINGS

here. I will take the mute off.

THE CHAIRMAN: What did you say?

MR. VENERUSO: I was on mute.

THE CHAIRMAN: You were doing some other work and not paying attention to me. Okay. I will give you_-- just hold on a second, I just want to get this here for a second.

MR. VENERUSO: Okay.

THE CHAIRMAN: Since he is younger than you, Mr. Veneruso, I am going to go along with him.

The next case is an area variance, 5681. It is 56 Prospect Street. Do I have a motion, please?

MR. GIORGIO: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Giorgio.

Mr. GIOGRIO; Case number 5681, Area Variance. The subject property is a vacant lot located on Prospect Street between Hawthorne and Buena Vista Avenues.

The applicant is proposing to construct a seven-story 125-unit rental

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PROCEEDINGS

apartment with underground parking and a landscaped courtyard.

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

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

Specifically, in making its determination, the Board has considered the following:

1. Whether the benefit sought by the applicant can be achieved by other feasible means. Given the built-up nature of the surrounding area and existing site conditions, it is not

PROCEEDINGS

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2 likely that the applicant can obviate
3 the need for the requested variances
4 either through acquiring additional
5 land, reconfiguring the site layout or
6 other means.

7 The Board notes that the current
8 application represents a substantial
9 reduction in the variances granted
10 under previous application Case #5580.

11 2. Whether granting the requested
12 variances would result in an
13 undesirable change in neighborhood
14 character or a detriment to nearby
15 properties.

16 The building as proposed would not
17 be out of character with other
18 structures in the surrounding area,
19 which largely consists of a mix of
20 multifamily residential and commercial
21 uses. To the contrary, the development
22 of a long vacant site would result in a
23 modern, managed property that would
24 likely increase the appeal of the
25 neighborhood and would provide much

1 PROCEEDINGS

2 needed housing.

3 The applicant is providing the
4 required on-site parking and has
5 submitted a shadow study that shows no
6 significant impacts when compared to
7 existing conditions.

8 3. Whether the requested variances
9 are substantial. While the variance
10 may appear numerically substantial, it
11 is not substantial with regard to
12 potential impacts as noted.

13 To summarize, development of the
14 site would convert a long vacant site
15 into an attractive, managed property.
16 The applicant has provided the
17 necessary on-site parking and submitted
18 a shadow study that shows no
19 appreciable impacts when compared to
20 existing conditions.

21 4. Whether the variances will have
22 negative affects to physical or
23 environmental conditions in the
24 neighborhood.

25 The project would not result in

1 PROCEEDINGS

2 any significant adverse impacts to
3 vegetation, impervious surfaces,
4 drainage, air, light or other nuisance
5 conditions when compared to existing
6 conditions.

7 5. Whether the alleged difficulty
8 is self-created. The hardship is
9 self-created as the applicant was
10 likely aware of existing zoning code
11 restrictions prior to purchasing the
12 property, but the self-created hardship
13 rule is only one consideration and does
14 not preclude the Board from granting
15 the request.

16 In granting this variance the
17 Board imposes the following conditions:

18 1. All fire, health,
19 environmental, safety, building and
20 zoning codes shall be adhered to at
21 alltimes;

22 2. Fire, smoke and carbon monoxide
23 detectors and a fire sprinkler system
24 shall be installed throughout the
25 building and connected to an outside

1 PROCEEDINGS

2 24-hour monitoring system;.

3 3. Any repairs or replacement
4 required by the City Engineer to the
5 sidewalks or curbs in front of the
6 property along Prospect Street or
7 Hawthorne or Buena Vista Avenues shall
8 be repaired or replaced by the
9 applicant prior to the Certificate of
10 Occupancy being issued;

11 4. Each apartment shall be
12 allocated at least one parking space
13 free of charge;.

14 5. Any exterior lighting shall be
15 oriented away from neighboring
16 residences to the extent practicable;.

17 6. These conditions shall be
18 specified on the Certificate of
19 Occupancy and the owner shall permit
20 periodic inspections at the discretion
21 of the City of Yonkers, Department of
22 Housing and Buildings, at least once
23 every calendar year to determine that
24 the conditions are being satisfied;.

25 7. This approval shall be

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immediately rescinded should the owner violate any of these conditions at any time; and

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

9. No businesses shall operate from the property.

Thank you.

THE CHAIRMAN: This is going to be strictly housing, Mr. Giorgio, so we are going to put a condition there, no businesses are allowed in this building, is that okay with you, Mr. Giorgio?

MR. GIORGIO: Sure, Mr. Chairman.

THE CHAIRMAN: Thank you. Do I have a second on the motion, please? Do I have a second?

MR. LOPEZ: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for

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PROCEEDINGS

the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The
Chairman votes for the motion. The
motion is carried, five in favor, one
absent, one vacant. Thank you.

The next case is Mr. Veneruso.
Just give me a second, please.

MR. VENERUSO: Yes, Mr. Chairman.

THE CHAIRMAN: 5668, Mr. Veneruso,
it is at 453 Bronx River Road, also
known as 1219/1221 Yonkers Avenue. Do
I have a motion, please?

MR. GIORGIO: Yes, Mr. Chairman.

THE CHAIRMAN: Mr. Giorgio, yes.

MR. GIORGIO: Case 5668, 453 Bronx
River Road, also known as 1219/1221
Yonkers Avenue, Zone BA.

The subject property is currently
vacant and is the location of the

1 PROCEEDINGS

2 former Kimball Theater and other
3 commercial buildings. The site has
4 been the subject of multiple
5 development plans since 2011 proposed
6 by multiple owners.

7 The current proposal is for a 266
8 unit residential building with 14
9 stories of living space and five floors
10 of parking together with 1,600 square
11 feet of ground level retail space.

12 Mr. Chairman, I make a motion to
13 approve the requested variances based
14 on facts, findings, information, and
15 testimony presented to this Board at
16 the public hearing, site visits by
17 members of the Zoning Board of Appeals,
18 or otherwise obtained.

19 In approving these variances the
20 Zoning Board of Appeals has taken into
21 consideration the hardship faced by the
22 applicant as weighed against the
23 detriment to the health, safety, and
24 welfare of the neighborhood and
25 community.

1 PROCEEDINGS

2 Specifically, in making its
3 determination the Board has considered
4 the following:

5 1. Whether the benefit sought by
6 the applicant can be achieved by other
7 feasible means.

8 Given existing site conditions,
9 topography and development in the
10 surrounding area, it is not likely that
11 the benefit sought by the applicant can
12 be achieved by other more feasible
13 means. The project site has been the
14 subject of a number of variance
15 applications over several years that
16 have included various configurations
17 and site layouts under multiple owners.

18 The current proposal has reduced
19 the number of variances required over
20 previous iterations from the current
21 owner, includes the required number of
22 off-street parking spaces and includes
23 various traffic mitigation measures,
24 while providing the benefits sought by
25 the applicant.

1 PROCEEDINGS

2 2. Whether granting the requested
3 variances would result in an
4 undesirable change in neighborhood
5 character or a detriment to nearby
6 properties.

7 The site is currently vacant and
8 has been unused since a fire destroyed
9 the old Kimball Theater many years ago.
10 Development would transform the site
11 into an attractive and managed property
12 with significant amenities that would
13 serve as a gateway building to the City
14 from the south.

15 The applicant has designed traffic
16 flow into and out of the property to
17 minimize impacts to local roadways.
18 They have also agreed to various
19 traffic mitigation measures as outlined
20 in a memorandum from the City Engineer
21 to the Zoning Board dated February 14,
22 2020, which includes a new traffic
23 signal at the intersection of Oak
24 Street and the Bronx River Parkway
25 on-ramp, hardwired communication

PROCEEDINGS

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2 connections between this new signal and
3 existing signals at Oak Street and
4 Bronx River Road and Yonkers Avenue and
5 Bronx River Road, time based
6 coordination of all signalized
7 intersections within the project study
8 area, and evaluation and repair of
9 existing wireless communication
10 infrastructure and connections.

11 The application also provided the
12 required number of off-street parking
13 spaces to reduce impacts to public
14 parking resources in the area.

15 The Board notes for the record
16 that the local neighborhood
17 association, the Hyatt Association, has
18 expressed support for the project.

19 3. Whether the requested variances
20 are substantial. While the proposed
21 variances are numerically substantial,
22 the Board finds that revisions to the
23 site design have minimized the number
24 of variances required and the proposed
25 mitigation measures, including traffic

1 PROCEEDINGS

2 improvements and compliance with
3 off-street parking requirements, would
4 reduce impacts to the surrounding
5 community.

6 4. Whether the variances will have
7 negative affects to physical or
8 environmental conditions in the
9 neighborhood.

10 The action would not result in
11 significant changes with regard to
12 impervious surface, drainage,
13 vegetation or other environmental
14 conditions when compared to existing
15 conditions.

16 5. Whether the alleged difficulty
17 is self-created. The hardship is
18 clearly self-created as the applicant
19 only recently acquired the property and
20 was likely aware of existing zoning
21 code restrictions as they apply to the
22 property. However, the self-created
23 hardship criterion is only one
24 consideration and does not preclude the
25 Board from granting the applicant's

1 PROCEEDINGS

2 request.

3 In granting these variances the
4 Board imposes the following conditions:

5 1. All fire, health,
6 environmental, safety, building and
7 zoning codes shall be adhered to at all
8 times;

9 2. Fire, smoke and carbon monoxide
10 detectors and a fire sprinkler system
11 shall be installed throughout the
12 building and connected to an outside
13 24-hour monitoring system;

14 3. Any repairs or replacement
15 required by the City Engineer to the
16 sidewalks or curbs in front of the
17 property along Yonkers Avenue, Bronx
18 River Road or Crescent Place shall be
19 repaired or replaced by the applicant
20 prior to the Certificate of Occupancy
21 being issued;

22 4. At the owner's expense, the
23 applicant shall implement all traffic
24 mitigation measures outlined in the
25 City Engineer's February 14, 2020

PROCEEDINGS

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2 memorandum to the Board. These
3 measures must be installed and fully
4 operational prior to the Certificate of
5 Occupancy being issued. These measures
6 are to be maintained by the property
7 owner;

8 5. The applicant shall provide all
9 amenities as outlined by the
10 applicant's attorney at the December
11 17, 2019 public hearing, which include:

12 A) Lighting coverage on all levels
13 of the parking garage.

14 B) Exterior lighting coverage to
15 include all public areas around the
16 perimeter of the building which shall
17 be oriented away from neighboring
18 properties to the extent practicable.

19 C) 24-hour camera coverage in all
20 levels of the parking garage, around
21 the perimeter of the building, and in
22 all common areas within the building.

23 D) A 24-hour doorman.

24 E) A common rooftop lounge area
25 for tenants.

PROCEEDINGS

F) A common fitness center.

H) A common laundry facility.

In addition to common laundry facilities, a washer and dryer will be supplied and installed in all one bedroom and two bedroom apartments.

6. The owner shall implement the parking efficiency program as outlined by the applicant's attorney at the December 17, 2019 public hearing.

Notwithstanding the foregoing, each apartment shall be allocated at least one parking space free of charge;

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

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

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time, and;

9. All expenses associated with these conditions shall be the responsibility of the owner.

Thank you.

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

MR. SINGH: Second.

THE CHAIRMAN: On the motion, Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman, for the motion.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The Chairman votes for the motion. The motion is carried, five in favor, one absent, one vacant.

I would like to make a motion to close the hearing for the night. Do I

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have a second?

MR. GIORGIO: Second.

THE CHAIRMAN: Okay.

(Whereupon, at 7:55 p.m., the
above matter concluded.)

CERTIFICATION

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand.



HOWARD BRESHIN,
COURT REPORTER

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& 3:7	2	30.31 28:2,7	82:15,21
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