

September 12, 2016

TOWN OF NEW WINDSOR

ZONING BOARD

September 12, 2016

B E F O R E : MICHAEL KANE, CHAIRMAN
FRANCIS BEDETTI
HENRY SCHEIBLE
GREGORY BIASOTTI

ALSO PRESENT: GEOFFREY CHANIN, ESQ.
ZONING BOARD ATTORNEY

STEPHANIE RODRIGUEZ
ZONING BOARD SECRETARY

ABSENT: RICHARD HAMEL
PATRICK TORPEY

MEETING AGENDA:

Preliminary meetings

1. Corkedale
2. New Windsor 5 Corners
3. Duncan Avenue LLC

Public Hearings

1. Anthony Vence

Continuation

1. Best Fudgin Cakes

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals regular session September 12, 2016 to order. Roll call please.

ROLL CALL

MR. SCHEIBLE: Here.

MR. BEDETTI: Here.

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MR. BIASOTTI: Here.

MR. KANE: Here.

MR. KANE: Motion to accept minutes of 7/11, 8/8 and 8/22 minutes as written sent by e-mail on 8/31.

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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PRELIMINARY MEETINGS:

Corkedale (16-19)

MR. KANE: We'll start off with preliminary meetings tonight. Corkedale area variances are required to permit an existing 10-foot by 31-foot attached rear deck that does not meet 40-foot rear yard setback and an existing 10 by 14-foot shed does not meet minimum five foot rear yard setback located at 69 Hudson Drive.

For those of you here for preliminary meetings what we do in New Windsor is we hold two meetings, we hold a preliminary meeting so that we can get a general idea of what you want to do and make sure that we have the proper information to make a decision on that. Other towns do one meeting if you don't have the right information you lose, you don't come back for six months. So at the second hearing it will be the public will be involved in that and ask any questions they have. Very similar questions from the board coming through you, okay?

So Corkedale.

MS. CORKEDALE: Yes.

MR. KANE: Come on up. What you want to do is state in your own words, tell us exactly what you want to do.

MR. CHANIN: Just speak loud enough for the stenographer and say your name and address.

MS. CORKEDALE: My name is Patricia Corkedale, I live at 12 Harth Drive in New Windsor and we are here for 69 Hudson Drive in New Windsor.

MR. CHANIN: Try to angle your speech so that everybody can hear you, all right?

MS. CORKEDALE: So what we're trying to do is we inherited this home, myself and my sister, and we are trying to put it on the market to sell it and we have been told by the town that the shed and the deck are not legal at the moment. So we are here to try to get a variance for that so we can put the house for sale.

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MR. KANE: Let's take one step at a time. The shed itself, how long has that been up approximately, any idea?

MS. CORKEDALE: Probably over 25 years.

MR. KANE: Around 25 years? Okay. Is it creating any water hazards or runoffs with the shed in that position?

MS. CORKEDALE: No.

MR. KANE: Creating or cutting down any substantial vegetation or trees when that shed was built?

MS. CORKEDALE: No, not to my knowledge.

MR. KANE: To your knowledge were there any complaints formally or informally about the location of your shed?

MS. CORKEDALE: Not to my knowledge. We didn't own the home at the time so.

MR. CHANIN: Were there any easements or right-of-ways running through the property in which the shed might be encroaching?

MS. CORKEDALE: No, not that we know.

MR. KANE: And the shed is similar in size and nature to other sheds that are in your neighborhood, or in that neighborhood? Average size shed 10 by 12.

MS. CORKEDALE: I have no idea. I would assume so. I would assume so. The pictures that they gave you we are presuming that that cement block behind the shed is the actual, so we are measuring from that assuming that that's where the property line is.

MR. KANE: And the deck itself, how long has that been up?

MS. CORKEDALE: We don't know, we didn't build it so.

MR. KANE: There's been no water runoff or ponding

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issues by the picture I am looking at?

MS. CORKEDALE: No.

MR. KANE: The deck?

MS. CORKEDALE: It's flush on the grass.

MR. KANE: Pretty much flush off the grass, a couple inches off of it?

MS. CORKEDALE: Yes.

MR. KANE: The deck itself is similar to other decks that are in your neighborhood, I would not consider that oversized from what I've seen.

MS. CORKEDALE: Right.

MR. KANE: Do me a favor just check with the building department, I wasn't sure that a deck that close to the ground had to comply with the 40 feet. I might be wrong. Let's just double check.

MS. RODRIGUEZ: I will double check.

MR. KANE: Obviously with the type of deck that you have or patio is probably a better way, wooden patio, is probably a better way to do is there's no fencing, no doors needed, very close to the ground, okay.

And the removal of the shed from that area onto another part of the yard would be physically unreasonable or would there be a danger in the shed not making it being it's 25 years old?

MS. CORKEDALE: I don't believe it could be moved, you can see from the pictures it's not like an aluminum shed.

MR. KANE: Some things I have to get on record.

MS. CORKEDALE: Okay.

MR. KANE: I have to ask you some obvious questions.

MS. CORKEDALE: It's not an aluminum shed we can easily move, it's built on the site.

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MR. KANE: Is there a slab under it?

MS. CORKEDALE: I believe there may be.

MR. KANE: Do you know if there's any electric running to the shed?

MS. CORKEDALE: Not to my knowledge.

MR. KANE: Any further questions from the board?

MR. BEDETTI: A question relative to the violation, is the violation from the deck itself, is the deck in violation or is it the room, the room that's built there?

MR. KANE: No, it's the deck itself. The deck is 10-foot. If you look at this right here the deck is 10-foot from the existing room which only leaves, from the edge of the deck at that point, leaves 36 feet going to the rear property line.

MR. CHANIN: Four feet short of the rear yard setback requirement.

MR. KANE: Again, the deck is only 10-foot wide at that point. So not unusually long. And that would be that's it because it's 48 feet to the house.

MR. CHANIN: And the shed doesn't meet the rear yard setback either.

MR. KANE: It's looking like it's three feet off the property line rather than five.

MR. BEDETTI: I would ask her if she would consider moving it to another location. She would have to only move it two feet away, move it forward like two feet if it was possible to move at all. If it's been there for 25 years I would be a little concerned.

MR. KANE: Plus it looks like it's got a little build-up for rock fence.

MR. BEDETTI: It looks like that was fabricated.

MR. KANE: If it was there 25 years it could be a

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little bit of a pain, I could get it.

Okay, any other questions? In that case I'll accept a motion to set for a public hearing.

MR. BEDETTI: I make a motion we schedule a public hearing for Corkedale to request a variance for a rear setback and a shed that does not meet the rear setback as well located at 69 Hudson Drive in an R-4 zone.

MR. SCHEIBLE: Second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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New Windsor 5 Corners (16-28)

MR. KANE: Next preliminary meeting New Windsor 5 Corners, a sign variance of 61 square feet is requested to permit a proposed 125-foot square foot free-standing sign as well as the sign variance of 14 feet width proposed wall sign, located at 2648 Route 32 in an HC zone. Good evening, gentlemen.

MR. FLETCHER: Good evening.

MR. KANE: What you want to do is tell us in your own words exactly what you want to do. Speak loud enough for this young lady over here to hear you and please state your name and address.

MR. FLETCHER: Absolutely. Luke Fletcher, 36 Mine Hill Road, Malone, New York. And what we're looking to do we need a variance for the actual store sign for our location. Our business is predicated on drive-by traffic. And for this location Verizon stipulates we have to have a certain size sign for building this building 6,200 square feet. So for a building this size what we are looking for is a 90.3 square foot sign on the front of the building. Our pylon meets code. We're permitted two building mounted signs, we only want one based on the way that the architecture of the building. We're just looking for the town to allow us and grant us a little bit larger sign on the front of the actual building.

MR. KANE: So in lieu of having two signs you're looking for one a little bit larger?

MR. FLETCHER: Correct.

MR. KANE: And that's larger on length only or height also?

MR. FLETCHER: On total square footage it is from 39 square feet to 90. So it is length and height as our logo has one dimension.

MR. CHANIN: Mr. Fletcher, could you just state for the record your capacity in which you are representing the applicant?

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MR. FLETCHER: Sure, I'm the regional director for Cellular Sales.

MR. CHANIN: Of Verizon?

MR. FLETCHER: Well, Cellular Sales is in Knoxville. We're a large retailer for Verizon. They are national. We don't work for Verizon, it's a separate entity.

MR. CHANIN: Thank you. Are you going to be cutting down excessively any trees or vegetation?

MR. YANNONE: The site plan has been approved.

MR. CHANIN: State your name?

MR. YANNONE: I'm sorry, Raymond Yannone, New Windsor 5 Corners LLC, owner of the property. So we basically have a landscape plan and site plan approved recently at the planning board, we're in the process of completing that.

MR. CHANIN: Okay, and are you going to create any ponding water runoff or erosion?

MR. YANNONE: No.

MR. CHANIN: And are you going to encroach on any easements or rights-of-way?

MR. YANNONE: No.

MR. CHANIN: Thank you.

MR. KANE: The sign itself, interior illumination?

MR. FLETCHER: Yes.

MR. KANE: Non-flashing?

MR. FLETCHER: Non-flashing.

MR. KANE: The same with the standing sign?

MR. FLETCHER: Yes, sir.

MR. SCHEIBLE: Since we have five corners there, I

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just want to clear this up, which direction would this sign be looking from, looking at the sign, from 32 or 94?

MR. KANE: Kind of catty-corner. You know where the old cheese place was?

MR. SCHEIBLE: I know the property.

MR. KANE: I just went by and saw it.

MR. YANNONE: There is an overhang across, it's elevated above. So it faces directly to the intersection 94, 32, 94, 32.

MR. SCHEIBLE: Everybody gets to see it?

MR. YANNONE: Yes.

MR. SCHEIBLE: Catty-corner type of sign?

MR. YANNONE: Yes.

MR. KANE: Okay, and the free-standing sign?

MR. FLETCHER: Yes.

MR. KANE: 125 square foot? 61 is requested.
Any Further questions from the board?

MR. BEDETTI: Now, the free-standing sign is going to serve just your store?

MR. FLETCHER: Yes, sir.

MR. BEDETTI: It's not going to be shared?

MR. YANNONE: The sole occupant in the building right now. They're taking the entire building.

MR. BEDETTI: It's not a shared thing?

MR. YANNONE: No.

MR. KANE: Any further questions? If not I'll accept a motion to setup for a public hearing.

MR. SCHEIBLE: Make a motion to go for a public

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hearing for a sign variance of 61 feet foot and is requested to permit a proposed 125 square foot free-standing sign as well as a sign variance of 14-foot width for a proposed wall sign located at 2648 Route 32 in an HC zone, 70-1-1.12.

MR. KANE: Is there a second?

MR. BIASOTTI: Second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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Duncan Avenue LLC (16-21)

MR. KANE: Tonight's last preliminary meeting, Duncan Avenue LLC proposed single family dwelling requires a variance for lot area 27,389 square feet, minimum lot width of 25 feet, a rear yard depth of 9.19 feet, located at Hill View Drive in an R-4 zone.

How are you doing? The same as the others, state your name, address loud enough for this young lady to hear you and tell us what you want to do.

MR. ALEXANDER: My name is Dino Alexander, I am the owner of Duncan Avenue LLC. Address is 87 Duncan Avenue, Cornwall-on-Hudson 12520.

Recently we have purchased lot 5832 which is an adjacent lot of the lot on the application. The 5832 already has a single family dwelling on it. It's entirely on the lot. And with the purchase we acquired both lots. What we are looking to do is develop the second lot. We are proposing a single family dwelling. We are trying to comply with most requirements. We cannot accommodate the lot size since the lot size is much smaller than the requirement. And we are also asking for variance in the rear setback as well as the, I believe, the front of the lot.

MR. KANE: You said there is a home on this property already?

MR. ALEXANDER: No, there is a home on the adjacent lot which we own as well.

MR. CHANIN: 5832, this is 33.

MR. KANE: Were these lots combined at one time and then split?

MR. ALEXANDER: I am not sure. We purchased both lots separately. We purchased them together but they were already separated.

MR. KANE: They were already separated?

MR. CHANIN: When did you purchase 32?

MR. ALEXANDER: Both of them we purchased in March

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this year. And the reason for we believe it's a reasonable request is it's a cul-de-sac street and every lot on it that has a built dwelling it's similar to the size of this particular lot and most of them have similar setbacks as the one we are requesting. It's a very, very small street and the lots are already, they are already built very small size.

MR. KANE: Okay. Creating any water hazards or runoff in the building --

MR. ALEXANDER: No.

MR. KANE: -- or cleaning of this lot? Any easements running through the lot?

MR. ALEXANDER: No.

MR. KANE: Cutting down substantial trees or vegetation on the building of it?

MR. ALEXANDER: No. Only the necessary trees, probably two trees that are currently taking place. But we are planning on keeping everything around it. There are a couple of trees on the front side and there are a couple of trees between the adjacent lots which we intend to keep.

Also I wanted to mention the back lot, the property is partially wooded so everything behind that particular lot it's still a wooded area so there's a lot of privacy.

MR. KANE: For the public hearing I would request that you show us a diagram how this house is going to sit on that particular piece of property so we can see it visually.

MR. ALEXANDER: Sure.

MR. KANE: It's showing a frame shed on the property right now, is that staying, is that going?

MR. ALEXANDER: No, that would be going.

MR. KANE: And what's the concrete? Is that a concrete pad?

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MR. ALEXANDER: No, it's just some sort of a concrete slab leftover from I'm not really sure what, but that would be removed.

MR. KANE: Are you going to be on town water or well?

MR. ALEXANDER: We will be on well.

MR. KANE: Septic?

MR. ALEXANDER: Yes -- no, we will connect to the town sewer. There is a sewer running under the street so we will utilize that.

MR. KANE: Okay, further questions from the board?

MR. SCHEIBLE: Looking at this map here exactly just give me whereabouts of this piece of property?

MR. ALEXANDER: Up the street?

MR. SCHEIBLE: Of the street, yes. I only lived in this town for 70 some years, I'm just curious.

MR. ALEXANDER: So if you're familiar with Beaver Brook Road, so you go up the Hill View Drive, it will be the third lot on your right. So there's already a corner lot it has one house there, the second lot is a much smaller lot than ours, it already has a house. So we're between that second lot and our property is right on Hill View.

MR. SCHEIBLE: This building, is that strictly speculation, resell when it's finished, the house that you're building?

MR. ALEXANDER: Possibly.

MR. SCHEIBLE: Are you going to be occupying this?

MR. ALEXANDER: We haven't decided yet but it really depends how, you know, what we are going to do. Currently the house that we purchased, both lots, we renovated it so we are currently selling it. Our intent is to develop the area to obviously bring the market values of the property there. We really love the community, and we see that there's a lot of

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opportunities for developing the real estate there. So possibly, you know, if we are able to do so we would like to, you know, either resell or either stay there.

MR. SCHEIBLE: All right, you answered my question.

MR. KANE: Any further questions? If not I'll accept a motion to setup for a public hearing.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Duncan Avenue LLC for a proposed single family dwelling for variance of 27,389 square feet, minimum lot width 25 feet, and rear yard depth 9.19 feet located at Hill View Drive in an R-4 zone.

MR. BIASOTTI: I'll second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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PUBLIC HEARINGS:

Anthony Vence (16-17)

MR. KANE: Tonight's first public hearing Anthony Vence, variances are requested to permit an existing second kitchen in a basement as well as an existing 10 by 12 shed which projects nearer to the street on which the principle building fronts, located at 1018 Rolling Ridge in an R-3 zone.

Is there anybody else here for this particular hearing? Nobody? Just wanted to make sure that way I can get their addresses and names.

What you want to do, the same as the prelim hearing, tell us your name, address and tell us exactly what you want to do in your own words. Speak loud enough for this young lady to hear you.

MR. VENCE: Anthony Vence, 1018 Rolling Ridge, New Windsor, New York 12553. And I'm here for two things, a variance for the basement, second kitchen. It was built for my parents who live in Orlando and come here for a couple of months and stay. So we have the sink, stove, everything that they need.

The second thing is the shed. I have a corner lot and I have it directly behind my house off to the side a little bit towards the street and I just found out it has to be directly behind the house. The reason why I put it there is because there was no trees, vegetation or anything to take down. It fit in there perfect. So I built up item four about two feet off the ground so there's no water and it's been there quite a few years.

MR. KANE: We'll take them one at a time. The second kitchen, your intent and purpose on the home is to use it as a single family home without renting the basement in the second kitchen?

MR. VENCE: Yes.

MR. KANE: The gas and electric coming into that kitchen are all on one meter, there's no separate meters coming in?

MR. VENCE: No separate meters.

MR. KANE: You have full access from that area to

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the rest of home?

MR. VENCE: Yes, there is a door with no lock.

MR. KANE: Is there also an access from outside into that particular area?

MR. VENCE: Yes, there is two doors.

MR. KANE: And once again there is no intent to do any kind of renting whatsoever, it's only for family use?

MR. VENCE: Just family.

MR. KANE: The shed itself, the first question I want to ask on this, is this a corner property?

MR. VENCE: Yes.

MR. KANE: So therefore the main reason your shed is here is that you're a corner property and since you have two front yards where you are projecting closer to the street if you were a regular house in the zone you would not be here for that, am I correct on that?

MR. VENCE: This is correct.

MR. KANE: Gentlemen, further questions?

MR. BEDETTI: Is the shed visible from the road?

MR. VENCE: No.

MR. KANE: Barely.

MR. VENCE: From the side-view, no. From the front you kind of, it's barely. You have to like be in my driveway kind of looking at an angle to see the front of the shed. But the side is pretty much covered by the trees.

MR. BEDETTI: I had to look under the tree to find it.

MR. VENCE: I took a bunch of pictures.

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MR. SCHEIBLE: How long do you own the piece of property?

MR. VENCE: I've been there since September '05.

MR. SCHEIBLE: Was the shed currently there or did you put the shed in?

MR. VENCE: I had the shed put in.

MR. SCHEIBLE: Go back to the entrance. Now, the entrance to this kitchen area from outside, is that directly into the kitchen area or is it off to the side where they have to enter that?

MR. VENCE: Coming in from the back of house you have like a living room area and then the kitchen is in the front of the house.

MR. KANE: And that door is in the back of the house?

MR. VENCE: Yeah, the door is in the back of the house.

MR. BEDETTI: Is there free access from the lower kitchen to the rest of the house?

MR. VENCE: Yes, staircase with a door with no lock on it.

MR. BEDETTI: And there is no bedrooms or anything else?

MR. VENCE: There is a bedroom down there. It has two windows, egress.

MR. BEDETTI: Bathroom facilities also?

MR. VENCE: There is a bathroom, full handicapped bathroom.

MR. KANE: Okay, at this point I'll open it up to the public and ask anyone once again if there's anybody here for this particular hearing that would like to speak? Seeing as there's not, we will close the public portion of the hearing and bring it back to Stephanie and ask how many mailings we have?

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MS. RODRIGUEZ: On the tenth day of August 2016 I compared 30 addressed envelopes containing the public hearing notice pertaining to this case, sent it out and got no response.

MR. KANE: And we will bring it back to the board for any further questions.

MR. BEDETTI: There's been no complaints on your shed?

MR. VENCE: No. My neighbor, I see him every day, walk the dogs, the dogs play together.

MR. BEDETTI: I am good, thank you.

MR. KANE: If there are no further questions then I will accept a motion.

MR. BEDETTI: I'll make a motion that we grant a variance for a shed that projects closer to the street on which the principle building fronts located at 1018 Rolling Ridge in an R-3 zone. And as I am assuming this is an interpretation that this, or the interpretation being that this is a single family dwelling with two kitchens to be solely occupied by one single family and not sold or rented as a rental two-family apartment?

MR. VENCE: That's correct.

MR. BEDETTI: Again, all of these at 1018 Rolling Ridge in an R-3 zone.

MR. KANE: I need a second.

MR. BIASOTTI: I will second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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Continuation Of:

Best Fudgin Cakes (16-16)

MR. KANE: Next, the last hearing for tonight is a continuation of Best Fudgin Cakes, the variance for off-street parking is required for 13 spaces required, five provided, eight variances requested located at One Quassaick Avenue in a future NC zone.

MR. CHANIN: Name and address.

MS. GUIFFRE: Jennifer Guiffre, 51 Union Avenue, New Windsor, New York. And Best Fudgin Cakes is One Quassaick Avenue.

MR. CHANIN: Just for the record, gentlemen, this property is within 500 feet of New York State Route 9W and also within 500 feet of the boundary between the Town of New Windsor and the City of Newburgh. As such under General Municipal Law section 239 L, M and N as we have often discussed it is required by state law that this application be referred to the Orange County Planning Board which it has been done. And by law the Orange County Planning Board has 30 days to respond.

Now, if the Orange County Planning Board with respect to this or any other application gives a negative recommendation against the application it does not prevent this board from granting the application but by law it would require this board to have a super majority approval meaning four votes and not just the normal three. We did receive from the Orange County Planning Board a document dated August 31st indicating that the County Board did review this application and in their response the county reply indicates that they have in effect no objections and they are willing to allow this determination on this application to be made by this board. So that requirement has been satisfied.

MR. KANE: That puts that away. Is that what we were waiting for?

MR. CHANIN: Yes.

MR. KANE: And we did the public portion of this and all of that so we are just down to a vote is where

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we are at. Question?

MR. BEDETTI: Does that also include the zoning change that the Town Board just went through for that parcel?

MS. RODRIGUEZ: They did approve it.

MR. BEDETTI: They approved it. Did that have to go to the county and be approved?

MS. RODRIGUEZ: No.

MR. BEDETTI: Everything has been satisfied?

MR. KANE: As far as county everything has been satisfied.

MR. CHANIN: That's correct. And again just for the record, just for the record because Mr. Kane was absent last time when we did conduct a public hearing, I remind the board that nobody was present, there were no comments made at the public hearing and no comments were received in response to the 26 envelopes that Stephanie sent out.

MR. KANE: That's pretty good for that area.

Okay, any further questions? Then we're up for a vote, I will accept a motion.

MR. SCHEIBLE: I'll make a motion to approve the Best Fudgin Cakes 16-16 a variance for off-street parking that is required, 13 spaces required, five provided, eight variance required, located at One Quassaick Avenue in a future NC 9-1-67.

MR. BIASOTTI: I'll second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

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Formal Decisions:

Gennaro Acierno (16-14)

MR. KANE: We have that one formal decision I will accept a motion on it.

MR. BEDETTI: I'll make a motion that we accept the formal decision identified as Gennaro Acierno 16-14 as written and delivered by e-mail.

MR. BIASOTTI: I'll second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

MR. KANE: Motion to adjourn?

MR. BEDETTI: So moved.

MR. SCHEIBLE: Second.

ROLL CALL

MR. SCHEIBLE: Aye.

MR. BEDETTI: Aye.

MR. BIASOTTI: Aye.

MR. KANE: Aye.

* * *

THE FOREGOING IS CERTIFIED

to be a true and correct transcription of the original stenographic minutes to the best of my ability.



Roberta O'Rourke, Court Reporter