

March 9, 2009

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

MARCH 9, 2009

MEMBERS PRESENT: KATHLEEN LOCEY, VICE CHAIRMAN  
FRANCIS BEDETTI, JR.  
PAT TORPEY  
JAMES DITTBRENNER

ALSO PRESENT: ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE, CHAIRMAN

MICHAEL BABCOCK  
BUILDING INSPECTOR

REGULAR MEETING

MS. LOCEY: I'd like to call to order the March 9, 2009 meeting of New Windsor Zoning Board of Appeals.

For those of you who have not attended one of our zoning board meetings previously, it's a two part process, the first process is a preliminary meeting where you the applicant comes forward and advises the board what you're looking for and in turn we tell you what we need in order for you to obtain your approvals or your variances. After that's accomplished, you would come back for a second appearance and that would be your public hearing which is required by law where

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everything is more or less gone over again but the public is invited to attend and it's the formal meeting where all the information is gathered. So with that in mind, we have three preliminary meetings this evening.

PRELIMINARY\_MEETINGS:

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MICHAEL\_SMITH\_(09-02)

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MS. LOCEY: The first is the application of Michael Smith and a request for a 9 foot rear yard setback for an existing shed at Willow Parkway in an R-4 zone. Would you just give your name to the stenographer for the record?

MR. SMITH: Michael Smith, 230 Willow Parkway, New Windsor.

MS. LOCEY: And would you just tell us what exactly it is you're looking for?

MR. SMITH: It's an existing storage shed.

MS. LOCEY: How long has the shed been there?

MR. SMITH: Early '80s.

MS. LOCEY: So it's been there since the early '80s if you'd just speak up?

MR. SMITH: I've been there since the early '80s and it's right next to a stone wall, this was on the property when we bought the property in '75.

MS. LOCEY: We don't have pictures of this shed.

MS. MASON: I do, I left them.

MR. DITTBRENNER: Yeah, there's pictures.

MR. SMITH: I took them.

MS. LOCEY: I didn't get my copy. Now is the shed consistent with other sheds in the neighborhood? It's generally about the same size?

MR. SMITH: Yes.

MS. LOCEY: Have you had any complaints about it from any of your neighbors throughout the years?

MR. SMITH: No, none whatsoever.

MS. LOCEY: And obviously we don't need to concern ourselves with the removal of any vegetation or anything like that because it's already in existence. Any drainage problems in that area?

MR. SMITH: No, just there's a little when it rains real heavy there's a little mini swale almost that's right near it, you can see it in the picture but you can hardly see it.

MS. LOCEY: Is it anything that causes a drainage or water issue?

MR. SMITH: No.

MS. LOCEY: Okay, that's the important thing. Are there any utility easements on the property in the vicinity of the shed?

MR. SMITH: No.

MR. KRIEGER: Did you put the shed up or was it there when you bought the property?

MR. SMITH: When we bought the property in 1975 there was just a little rectangle metal shed, very ugly looking so we took it down and we went down to Devitt's and bought this in 1981 or whenever it was.

MR. KRIEGER: What would keep you from relocating it to the another property, another location on the property?

MR. SMITH: My wife.

MR. KRIEGER: Consistent with the--

MR. SMITH: Actually because of the little minor swale it tends to be a little wet but you might also see--

MR. KRIEGER: So it's wet on other areas of the property so this is the best location?

MR. SMITH: Right and my wife has some over the years she put in a couple little gardens in there too but it's basically--

MR. KRIEGER: The shed is resting on what?

MR. SMITH: Right in front of the stone wall.

MR. KRIEGER: On concrete pillars or gravel or is it--

MR. SMITH: Just on the ground.

MR. KRIEGER: But it's sort of settled in over the years?

MR. SMITH: Oh, yes, yes.

MR. KRIEGER: So it would be a hardship to remove it?

MR. SMITH: Yes.

MS. LOCEY: Those are the types of things that you need to prepare to say that it would be a hardship, that there are water issues in other portions of the property so this is the best location that's why you don't want to relocate it.

MR. SMITH: Yes, you're absolutely right.

MS. LOCEY: Are there any other questions from any

board members? If not, I will ask for a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Michael Smith as requested for a 9 foot rear yard setback for an existing shed at 20 Willow Parkway in an R-4 zone.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

MR. SMITH: Thank you very much.

MS. MASON: Call me tomorrow, I'll let you know what's next.

MR. SMITH: Thank you.

AUTO\_ZONE\_(09-04)

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MS. LOCEY: The second preliminary meeting is on the application of Auto Zone requesting a variance for off-street parking 62 spaces are required.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MS. LOCEY: How many provided? It doesn't say here.

MR. DITTBRENNER: It's actually--

MS. LOCEY: It's a request for 8 spaces so they're deficient by 8 spaces and I understand there's also a in addition to this application a request for a variance for the size of a sign, is that true?

MR. SHAW: Thank you. Good evening, my name is Greg Shaw from Shaw Engineering. Tonight I'm representing Auto zone. Madam Chair, did you mention about a sign?

MS. LOCEY: Is there a last minute addition?

MR. SHAW: Yes, there is, it's for a, we're allowed by zoning one freestanding, excuse me, one facade sign 2 1/2 feet by 10 feet dimensions and what we're proposing is a standard Auto Zone sign which they use throughout their national chains that's 23 1/2 feet deep by 31 feet 6 inches. Included in the application are pictures of that sign which I sent up, both the sign itself and how it sits on the building, give the board a little bit of a feel as to what it will look like. Regarding the parking variance, the site of Pizza Hut which is on Route 94 across from Price Chopper's that's to the side of this request for a variance, it's 1.4 acres in size, it's in the C zone, presently it houses a Pizza Hut and also a retail store Play It Again Sports. What my client is proposing to do is to take down the Pizza Hut sign and build, and basically redo

the entire site, new entrances, new parking, new curbing, new landscape and new lighting, new refuse enclosure, basically redo the whole site. The size of the store that they want to install is about 6,800 square feet and with that we're obligated to provide between that and the existing retail building total of 62 spaces. We only have enough room for 54 spaces on the site so therefore we're before this board asking for an area variance for the parking. I may mention to the board that the parking that we're providing for Auto Zone is substantially more than what they really need but that's not what dictates this application, it's our compliance with zoning and with that we're going to need a variance.

MS. LOCEY: So everything else is in compliance? It's just the number of parking spaces?

MR. SHAW: Correct.

MS. LOCEY: That you need a variance for?

MR. SHAW: Correct.

MR. TORPEY: You're doing that whole site?

MR. SHAW: Yes, everything's going. The only thing that's really going to remain is the retail building only cause the tenant has a lease on it but hopefully some day that will go too.

MS. LOCEY: Now, can you explain why it is you can't provide the additional 28 parking spaces?

MR. SHAW: If you take a look at the site plan we're just totally out of room, the rear of the property to the south side there's an existing wetland pond area which receives storm water from this site and also from other properties which are on 94 which drain to this area. If you take a look at the plan that we have

really generated every possible space we could, there's just no more room for this many. And again Auto Zone has their prototype building and signage as any national franchise does and that's what we're trying to get on the site 6,800 square foot building, they don't have one smaller.

MS. LOCEY: So it would be, it would not be beneficial to the corporation to build something smaller than that?

MR. SHAW: Correct, yeah, I don't know if they would be interested in the site. As you mentioned on the plus side is that the whole site's being redone and it is a tired site.

MR. KRIEGER: How many feet is the facade of the building where the sign's going to go?

MR. SHAW: The length of the building it's 94 feet across the front.

MR. KRIEGER: And you're proposing a sign that's what?

MR. SHAW: Going to be 31 foot 6 inches, I believe.

MS. LOCEY: Yes.

MR. TORPEY: That's on the building?

MR. SHAW: It's on the building and with respect to the freestanding sign, my client has been in touch with the building inspector's office and to reuse the existing sign with the insertion of their panels into the existing sign it satisfies them so it's not an issue of a freestanding sign, that has already been worked out with the building inspector, just the variance for the facade.

MS. LOCEY: For the size of the facade sign?

MR. SHAW: Correct.

MR. KRIEGER: And this location is down, its elevation is lower than the road?

MR. SHAW: Yes, it's probably about 4 feet below the elevation of the road surface of 94.

MR. KRIEGER: So in order for it to be identified it would need significant signage?

MR. SHAW: Yes.

MS. LOCEY: Are there other questions?

MR. DITTBRENNER: This sign is going to be illuminated from the interior?

MR. SHAW: I believe so, I'll confirm that though for the public hearing.

MS. LOCEY: But no flashing.

MR. SHAW: No, none of that, that's not permitted.

MS. LOCEY: Any other comments or concerns? If not, I'll accept a motion.

MR. DITTBRENNER: I would move that we forward the application for Auto Zone as it relates to an area variance for the parking as well as a variance for a sign, the facade sign for a public hearing.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER     AYE

MR. BEDETTI         AYE

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MR. TORPEY	AYE
MS. LOCEY	AYE

POUGHKEEPSIE\_PROPERTIES\_(09-05)

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Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MS. LOCEY: And the third and final preliminary meeting for this evening is the application of Poughkeepsie Properties requesting for lot number 1 a 5 foot building height variance and lot number 2 a 70 foot minimum lot width all at 121 Executive Drive in a PI zone. Do we have an applicant here?

MR. SHAW: Yes, thank you. At the end of Executive Drive there's a former ENAP building which presently is the tenant which has a tenant of the Newburgh School District. Last year, we made application to the planning board and they approved a new 6,600 square foot building to go on that site, it's presently under construction right now, that would be in conjunction with the existing building which was about 12,000 square feet of building on that site. So the bottom line is that there will be two buildings on that site and it is permitted by the Town of New Windsor. Now we're into 2009 and my client has given it some thought and he'd like to subdivide the property. The reason for subdividing it is for ease in financing and also afforded him an opportunity in the future if he wanted to sell a building instead of selling both of them. Therefore, we came before the planning board for a subdivision application where each lot had to meet the bulk requirements of that zone, that being in the PI zone. In review of the plan, we came up short in two respects, one is on the building height of the existing lot number 1 where we're providing a side yard setback of 16 feet, we're obligated in that sense the maximum building height for that building even though it's existing and when you take a look at the zoning ordinance definition for building height it's computed out as 21 feet, cause it's the average of the building height on each side of the building as it fronts the

main road. So we're deficient in that respect. By virtue of the fact of the height of the building along this side is only 15 feet high it doesn't meet the definition of your zoning ordinance therefore we're before you for a variance to allow a building height of 21 feet as defined by your zoning where the height is limited to 16 feet which is the distance to the nearest lot line. The other variance we're asking for is the lot width of lot number 2. The width, the definition of your lot width is defined at your front yard setback. In this particular application, I believe we need a lot width of 150 feet and we're only providing a width of 80 feet. Therefore, we need a variance for 70 feet. If you take a look at the plan in itself you'll see originally it was an integrated plan, you had two buildings on the parcel with an integrated parking lot and existing actually two curb cuts coming off Executive Drive. Now I have to strike a lot line in order to make sure that each lot complies with the bulk requirements, including parking and because the existing parking that when we did the existing building extended in this fashion, I had to strike my lot line here in order to encompass all this parking which met the number of spaces for the 12,000 square feet building. That set the narrow lot width for lot number 2 and that's the basis for my request for the variance for that lot. So again we're looking for two variances, one for lot width of lot number 2 and the variance is a building height variance for the existing building which is situated on lot number 1.

MS. LOCEY: All right, so the plan that's in place currently was approved by the planning board for one parcel of land with two buildings?

MR. SHAW: Correct, and it's presently under construction now.

MS. LOCEY: Is the same owner developer who now wants to subdivide?

MR. SHAW: Yes.

MS. LOCEY: After he got his approvals?

MR. SHAW: Yes.

MS. LOCEY: Without the use of variances he didn't need to, do you have any comments about that?

MR. KRIEGER: No, it's, I just want to make sure that we now have two buildings on one lot, you're going to have one building per lot?

MR. SHAW: Correct.

MS. LOCEY: And the existing building or the one that's being constructed only now needs a 15 foot height variance because the lot's smaller?

MR. SHAW: What happens is the existing building which contains the 12,000 square foot building we have now is the, a lot line in order that the bulk requirements for each lot are met we become deficient with respect to the building height cause that's a function of the distance to the nearest lot line which is the distance from the face of the building to the common lot line between lots 1 and 2 and when you go through the application which I submitted and you go into the affect on the neighborhood and such with respect to this, the only one who is going to possibly be affected is lot number 2 which is again owned by my client. So there really is, there's no detrimental affect to the neighborhood.

MS. LOCEY: All right, and the building width is only needed for this, is this where the variance is needed?

MR. SHAW: Right through here, the width of a lot is defined at the front yard so in this particular case if

you go back from the right-of-way line of Executive Drive the front yard setback of 50 feet you'll find that instead of providing 150 feet we're only providing 80 feet, so we have a distance here of 80 feet which should really be 150 feet and that's the variance that we're requesting.

MR. TORPEY: It used to be 350 until you cut it up?

MR. SHAW: Correct. I would ask the board to look at with the approval by the planning board they did a thorough environmental review, well, on this 2.4 acre parcel we have two buildings with an integrated parking area, that's going to happen that we have approval for, we're just asking to do it on two lots.

MS. LOCEY: No, I understand there's really no change to the use as far as approvals, it's just now there potential are two property owners as opposed to one.

MR. SHAW: Very well can be but at this point in time it's the same owner for both.

MS. LOCEY: Anyone else have any questions?

MR. KRIEGER: I might add by the way just for the board two property owners, for instance, may mean and I have no crystal ball but may mean that for instance somebody who's operating in its current mode but decides to make two separate corporations. So, in other words, to the outward for all appearances for all intents and purposes it appears to be under single ownership.

MS. LOCEY: Any other questions? Any concerns that we should bring up other than what we already discussed?

MR. TORPEY: Cutting down any trees?

MR. SHAW: No, if they're going down, they're down by now. The building is pretty much enclosed at this

point, it's been under construction probably for about five or six months.

MR. KRIEGER: So you're not proposing any additional change to the footprint or change to the buildings other than what's going on now?

MR. SHAW: Absolutely not, we're just asking I think it's primarily for financing purposes cause I'm sure the existing parcel is encumbered with a mortgage and now you're looking to build a building and it just makes things a lot easier about the, with respect to financing and sale in the future if they're on two lots and it's going to look like an integrated development whether it's on one or two.

MR. TORPEY: You'll never notice it.

MR. BEDETTI: Where is all the parking now? You said it's integrated parking but where is the bulk of the parking?

MR. SHAW: This is existing parking that goes with this existing building, this non-shaded area there's an entrance off Executive Drive and here's also existing parking which went with the existing building. In order for this building to comply with parking because it does not at this moment we had to expand this parking area to include these eight shaded parking spaces, four spaces here, four spaces here and then now that this parking went with the existing building that dictated where this lot line went to separate the two parcels. Unfortunately, I need 150 feet in width here and I don't have it and it's forced by us increasing this parking area to make it compliant with the existing building.

MR. BEDETTI: Now if those parcels were subdivided would there be adequate parking for each subdivision?

MR. SHAW: Absolutely, each parcel has to stand on its own both with respect to setbacks, heights, area and parking requirements.

MR. BEDETTI: Okay, thank you.

MS. LOCEY: If there are no further comments, I'll accept a motion.

MR. DITTBRENNER: I would move that we forward the application of Poughkeepsie Properties forward for a public hearing as it relates to variances requested for height of the building on lot 1 and minimum lot width for lot 2.

MR. TORPEY: I second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

PUBLIC\_HEARINGS:

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JOHN\_O'BRIEN\_(09-03)  
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MS. LOCEY: First is the application of John O'Brien and a request for a 7 foot rear yard setback for a proposed addition at 127 Blanche Avenue.

Mr. Frank Lombardi appeared before the board for this proposal.

MR. LOMBARDI: Mr. O'Brien is looking to put an addition on his existing ranch 30 feet along the frontage and 28 foot deep. By doing that, he ends up with a little piece of rear yard setback that goes over the line that's the piece that we're looking for the variance for, that's about it.

MS. LOCEY: All right, is the addition on ground level or is it on a second floor?

MR. LOMBARDI: It's going to be two stories in the front, one and a half in the rear, be dug into the lot, the lot has elevation towards the rear, it would be a two car garage coming in from the front and story above that which is going to be master bedroom in the new addition, two car garage, the existing master bedroom in the existing house would be turned into a closet and walk-through to get into the new addition. So they're not increasing any bedrooms just moving the master to the new part.

MS. LOCEY: There's no other configuration were this addition to be constructed and the variance not required could it be positioned differently on this lot.

MR. LOMBARDI: This side it's not possible because the grade of the lot it wouldn't and you couldn't pass through the master bedroom on this side of the house,

not on this side it would throw the whole layout off. We maintain 37 foot front yard, we're right at the front corner on this point and then we have 39 feet cause the street curves and the house is tilted, it's not parallel to any lot line. So if I maintain the front yard and do a 28 foot deep addition you have ample parking to put the car in with the utility behind the car and staircase so everything fits precisely without any extra space which projects it back five feet off that rear corner so if you made it any smaller than 28 it wouldn't accommodate a car probably so--

MS. LOCEY: That explains that. Any substantial vegetation being taken down?

MR. LOMBARDI: No, not at all.

MS. LOCEY: Will the proposed addition go over any right-of-ways?

MR. LOMBARDI: No.

MS. LOCEY: Any easements?

MR. LOMBARDI: No.

MS. LOCEY: Will it create water or drainage problems?

MR. LOMBARDI: No.

MS. LOCEY: Any other questions?

MR. KRIEGER: With the addition of the house afterwards be consistent with other houses in the neighborhood?

MR. LOMBARDI: Well, it will be larger than they are, all the existing houses on this part of Blanche it's called the newer part of Blanche built in the '80s are all high ranches, approximately 1,400 square foot, this would be substantially 840 square feet larger than

every other house without an addition, there are some that have additions off the rear.

MR. TORPEY: They're all going to look the same?

MR. LOMBARDI: Yes.

MS. LOCEY: Will it be consistent?

MR. LOMBARDI: It will be consistent.

MR. KRIEGER: Consistent doesn't mean the same.

MR. LOMBARDI: It will be the same in height, just be a little longer than, it will have the two car garage, it will fit right in, it wouldn't be obtrusive to the rest of the neighborhood.

MS. LOCEY: I'd like to open up the meeting to the public and ask if there's anyone here to speak on this application? Since there are not, we'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 27th day of February, I mailed out 49 addressed envelopes and had no response.

MS. LOCEY: If there are no further comments or concerns, I will ask for a motion.

MR. DITTBRENNER: I would move that we approve the application of John O'Brien for 7 foot rear yard setback variance for proposed addition at 127 Blanche Avenue.

MR. TORPEY: I second that.

ROLL CALL

MR. DITTBRENNER     AYE

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MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

WESTAGE\_(09-05)

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MS. LOCEY: And our final public hearing this evening is on the application of Westage for a proposed one additional pole sign and 23.2 square foot total for all signs, 23.2 variance, I assume?

MR. PETRILLO: Yes.

MS. LOCEY: If you could state your name for the record?

MR. PETRILLO: Ted Petrillo with Westage Companies.

MS. LOCEY: And?

MR. PETRILLO: We were in several weeks ago presented to the board an application to basically add a second monument sign in front of the property, the property's currently I've got a small drawing, you've probably got a similar one, there's two 12,000 square foot buildings on the property, we just recently added the second building where Hudson Valley Heart Center is and because of that new building and the new tenancy we wanted to take the one existing sign, monument sign located on the property, relocate it further up 207 in front of what I'll call the old building and add a second and identical type of sign frame in front of the Heart Center's building. The first sign had a variance approved for the additional square footage so the additional square footage of the sign that we're requesting is to match what's there as the existing sign so it's a relocation of one further up the road which allows to add a second one with a minimum 300 foot separation which was actually allowed by the zoning code but the building inspector suggested rather than go to the planning board for the approval of the second sign although it's allowed by the zoning code, come to the Zoning Board for that and the additional square footage, that's why we're here this evening.

MR. KRIEGER: So the two separate building are set up to have two separate entrances even though if the Heart Center doesn't have it?

MR. PETRILLO: That's correct, actually, the sign area on 207 we know how fast when there's traffic, traffic can move just to get the signs on a placard where people can read them we want to have the additional sign for the second building, not trying to crowd them.

MS. LOCEY: So you'll relocate the one sign and the new sign will that go in the original location of the first one?

MR. PETRILLO: No, actually I apologize, they'll get separated almost equidistant from where the existing sign is, existing sign is generally in the center line between the two buildings, the old sign will move up further west in front of the old building and a new sign further east.

MS. LOCEY: And I'm assuming since the original sign already went through the planning process that it does not obstruct traffic coming and going?

MR. PETRILLO: No.

MS. LOCEY: So the second additional sign?

MR. PETRILLO: No, it will be installed, set back off the right-of-way, there shouldn't be any obstruction, it's a straight shot in that area on 207 so it's not as if the sign's obstructing anything.

MS. LOCEY: Any easements on the property that the signs would be where the signs are to be located?

MR. PETRILLO: No, I believe all the utilities actually fall within the right-of-way which is just adjacent to

the pavement and we're set back onto our property from that.

MR. DITTBRENNER: Can I just back up? You said you have an approved variance for the existing heart sign now?

MR. PETRILLO: No, we have a variance for the existing monument sign, the permanent sign that's there.

MR. DITTBRENNER: Based on square footage?

MR. PETRILLO: Correct, correct, the difference is really the peak.

MR. KRIEGER: I was going to say if I recall correctly the sign would comply, it's the peak portion.

MR. PETRILLO: It's more the aesthetic portion that takes it outside compliance, the box portion matches the sign area, it's the, it's this peak, the architectural feature that we added that takes it outside of the square footage.

MR. DITTBRENNER: Is that the way that the zoning code reads? I thought it was square footage of sign face.

MR. KRIEGER: No, it's the whole thing and they'll measure, you know, you see the peak there this will measure the height of the sign from the top of the peak to the bottom of the sign so far as they're concerned, it's as if it was squared off, it would look exceedingly ugly if it were but that's how they're measuring it.

MR. PETRILLO: The actual printed area with tenants' names on it would match whatever the allowed square footage is.

MR. BEDETTI: Did you say the new spacing is 300 feet

between?

MR. PETRILLO: Yes.

MR. TORPEY: This is a lot of feet.

MR. PETRILLO: I don't know the total distance but it's a long frontage on 207 and there's two entrances to the property which allows by the zoning, the Planning Board's code would allow a second sign if you had two entrances you'd be allowed two.

MS. LOCEY: Any other questions or concerns? I'd like to open it up to the public. Is there anyone here who'd like to speak on behalf of the application? Since there are not, we'll close the public portion of the meeting and ask Myra about our mailings.

MS. MASON: On the 27 of February, I mailed out 19 addressed envelopes and had no response.

MS. LOCEY: And if there are no further comments, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the variance for the additional pole sign and the additional 23.2 square foot total for all signs for Westage Corporation as requested.

MR. TORPEY: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

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MS. LOCEY: Anything further from the board? I'll accept a motion to adjourn.

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER      AYE

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MR. BEDETTI	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

