

STATE OF NEW YORK : COUNTY OF ULSTER

TOWN OF MARLBOROUGH ZONING BOARD

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In the Matter of

CHESTNUT PETROLEUM DISTRIBUTOR,  
#1417 Route 9W  
Marlboro, New York 12542

TAX PARCEL: SECTION 109.1; BLOCK 4; LOT 14 (HD ZONE)

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PUBLIC HEARING

Date: March 9, 2017  
Time: 7:00 p.m.  
Place: Town of Marlborough  
Town Hall  
#21 Milton Turnpike  
Milton, New York 12547

BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN  
JEFF MEKEEL  
DAVE ZAMBITO  
LENNY CONN  
GEORGE SALINOVICH

RONALD C. BLASS, JR., ESQ.

THOMAS CORCORAN, JR. BUILDING INSPECTOR/CODE  
ENFORCEMENT

PENNY E. CASHMAN, ZONING BOARD SECRETARY  
APPLICANT'S REPRESENTATIVE: JONATHAN D. KRAUT, ESQ.  
SCOTT PARKER, DIRECTOR OF FACILITIES

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 CHAIRMAN GIAMETTA: Good

3 evening, everyone. Welcome to the March 9th

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4 meeting of the Town of Marlborough Zoning  
5 Board of Appeals. I ask you to join me to  
6 the pledge to the flag.

7 (Pledge of Allegiance)

8 CHAIRMAN GIAMETTA: Thank you  
9 very much.

10 We have two items new on the  
11 agenda. One item prior to that, and that is  
12 the minutes that we, the board, have to  
13 consider approval. May 12, 2016, we had a  
14 meeting and minutes were generated and,  
15 gentlemen, those were electronically sent to  
16 us. Have any concerns about those minutes or  
17 comments, modifications? The first one we  
18 would like to consider is the May 12th  
19 minutes.

20 MR. MEKEEL: I will make a  
21 motion to accept the May 12th minutes.

22 MR. ZAMBITO: I will second.

23 CHAIRMAN GIAMETTA: And a  
24 vote on that?

25 MR. CONN: Aye.

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 MR. ZAMBITO: Aye.

3 MR. MEKEEL: Aye.

4 MR. SALINOVICH: Aye.

5 CHAIRMAN GIAMETTA: And aye.

6 The same goes for the February 13th minutes  
7 any concerns about those minutes,

8 modifications?

9 MR. MEKEEL: No.

10 CHAIRMAN GIAMETTA: Changes?

11 MR. ZAMBITO: No.

12 CHAIRMAN GIAMETTA: I ask for  
13 a motion on that.

14 MR. MEKEEL: I will make a  
15 motion to accept the February 13th, 2017  
16 minutes.

17 MR. ZAMBITO: I will second.

18 CHAIRMAN GIAMETTA: And a  
19 vote?

20 MR. SALINOVICH: Aye.

21 MR. MEKEEL: Aye.

22 MR. ZAMBITO: Aye.

23 MR. CONN: Aye.

24 CHAIRMAN GIAMETTA: Aye.

25 Thank you very much. Tonight is a public

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 hearing and the matter is presented by  
3 Chestnut Petroleum Distributor. There is a  
4 legal notice that we are going to bring up  
5 before the presentation by Chestnut. And  
6 Mr. Zambito, if you will.

7 MR. ZAMBITO: Town of  
8 Marlborough Zoning Board of Appeals Legal  
9 Notice. Please take notice that a public  
10 hearing will be held by the Town of  
11 Marlborough Zoning Board of Appeals at the  
Page 3

12 Town Hall, 21 Milton Turnpike, Milton, New  
13 York on March 9th, 2017 at 7:00 p.m. or soon  
14 thereafter as may be heard on the following  
15 issues as they may pertain:

16 Any variances required by the  
17 Applicant from the Town of Marlborough sign  
18 regulations promulgated at 155-28 and the  
19 accessory structure regulations promulgated  
20 at 155-16 of the Town Code. Owner/Applicant,  
21 Chestnut Petroleum Distributor has made area  
22 variance requests concerning property located  
23 at 1417 Route 9W, Marlborough New York, 12542  
24 as follows:

25 Any necessary variances from

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 the sign regulations of 155-28 and the  
3 accessory structure regulations promulgated  
4 at 155-16 of the Town Code. Tax parcel:  
5 Section 109.1, Block 4, Lot 14, Highway  
6 Development Zone.

7 Any interested parties,  
8 either for or against this application, will  
9 have the opportunity to be heard at this  
10 time. William Giametta, Chairman, Town of  
11 Marlborough Zoning Board of Appeals.

12 CHAIRMAN GIAMETTA: Well  
13 done. Thank you very much.

14 sir, did you want to  
15 interject something?  
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16 MR. KRAUT: If I might  
17 proceed? I represent the applicant.

18 CHAIRMAN GIAMETTA: Not just  
19 yet.

20 MR. KRAUT: Fair enough.

21 CHAIRMAN GIAMETTA: I have an  
22 item before that, and that is the question  
23 about legal notices sent out via certified  
24 mailing.

25 MR. KRAUT: I was going to

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 address that. we had supplied the clerk  
3 with proof.

4 CHAIRMAN GIAMETTA: okay.  
5 We're going to -- with proof of?

6 MR. KRAUT: The mailings.

7 CHAIRMAN GIAMETTA: The  
8 mailings, okay.

9 MR. KRAUT: Yes.

10 CHAIRMAN GIAMETTA: Okay.  
11 Mr. Zambito and Mr. Mekeel, would you like  
12 to verify that? Let's take a minute to do  
13 that.

14 Mr. Zambito has the mailing  
15 out portion of the legal notice. How many do  
16 you count -- I'm sorry, Mr. Mekeel?

17 MR. MEKEEL: 54.

18 CHAIRMAN GIAMETTA: 54 mail-  
19 outs. And how many --  
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20 MR. ZAMBITO: 35 returns.  
21 CHAIRMAN GIAMETTA: --  
22 returns with signature?  
23 MR. ZAMBITO: And eight that  
24 weren't picked up.  
25 CHAIRMAN GIAMETTA: Eight

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 were not picked up, were unclaimed. Thank  
3 you very much. And now, counsel -- is it?  
4 MR. KRAUT: Yes, your Honor.  
5 CHAIRMAN GIAMETTA: Would you  
6 please present your outline?

7 MR. KRAUT: I will do so.  
8  
9 Good evening, Mr. Chairman, members of the  
10 board. My name is Jonathan Kraut, I'm  
11 partner with the law firm of Harfenist,  
12 Kraut & Perlstein. You've had, I believe,  
13 before met my associate in connection with  
14 this property, Leo Napier. He is covering  
another meeting tonight, hence, I'm here.

15 This application is fairly  
16 straightforward. It's based upon a strict  
17 application of the sign ordinance, and  
18 without restitution to the statute itself, I  
19 know you're familiar with it, it is a section  
20 of the code, in particular, 155-28C,  
21 permitting one identification sign not to  
22 exceed 32 square feet for each 250 feet of  
23 road frontage. I think as the board is

24 imminently aware of, both by membership of  
25 the community, membership on the board, and

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 quasi judicial notice, that the sign  
3 ordinance uniformly is violated throughout  
4 the municipality. In fact, there is -- part  
5 of our application, we submitted to the board  
6 a variety of photographs from Marlborough  
7 Plaza up and down the road demonstrating that  
8 both the aspect of the sign ordinance  
9 pertaining to setbacks for standing signs,  
10 which is a part of our variance application,  
11 as well as the square footage, is something  
12 that is really not enforced, but in this  
13 application, it was flagged as a  
14 noncompliance condition in our application.  
15 We submitted to the board details about each  
16 of the signs. The Board did receive back  
17 from the Ulster County Planning Board a  
18 recommendation memo. That recommendation  
19 memo -- and I can't explain to you how this  
20 happened, because obviously the conduit for  
21 information to the Ulster County Planning  
22 Board is through the municipality -- they  
23 flagged a few items as being unclear based on  
24 the application not providing certain signage  
25 details. Specifically to wit, on the first

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   page of their memo, they indicated that the  
3                   ZBA should be provided a breakdown of the  
4                   signage proposed and broken down by type of  
5                   sign for the ZBA to review. I would point  
6                   out for the formal record that we, indeed,  
7                   have provided that information, that you have  
8                   that information. Scott Parker, who's part  
9                   of our design team, is here as well tonight.  
10                  We have site plan and renderings of the  
11                  signs' dimensions, coloring. We certainly  
12                  can address any questions that there are  
13                  about that.

14                  With regard to the Board's  
15                  decision-making process and application of  
16                  the state mandated test, as well as the  
17                  municipalities own code, I'm not going to  
18                  give a dissertation on the standards. I  
19                  think the Board -- the Zoning Board is well  
20                  familiar with them. What I would point out  
21                  is that in examining the question as to  
22                  whether an undesirable change would be  
23                  produced in the character of the neighborhood  
24                  or nearby properties, certainly, I would be  
25                  remiss not to just point out that is the very

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   reason we submitted a whole series of  
3                   photographs, and all one needs to do is take

4 RT030917-1847 (1)  
5 a ride up and down the road to see that what  
6 exists out there is virtually almost  
7 uniformly noncompliant, in many cases far in  
excess what we're seeking.

8 And so, on the question of  
9 whether or not it would create an undesirable  
10 change, we ask the Board to take that into  
11 consideration, whether or not the benefits  
12 sought by the Applicant would be achieved by  
13 some method that's feasible for us to pursue  
14 the size of variance. There is not any --  
15 there is no magical way to create the  
16 illusion of signage. Someone in my office  
17 was joking, if you only could project it sort  
18 of like a hologram into thin air, would it  
19 really be a sign. There is no other way for  
20 us to achieve this benefit. The question is  
21 to whether or not the requested area variance  
22 is substantial, and we would submit to the  
23 Board that in the context of both the  
24 ordinance and what exists, it is not  
25 substantial. Substantiality, of course, can

11

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 be measured by percentages and other methods.

3 The Board is probably aware  
4 that the courts have uniformly held that  
5 substantiality alone does not rule the day,  
6 and the same can be said for whether or not  
7 any such circumstance is self-created. This

8 RT030917-1847 (1)  
9 is not, in my view, anyway a self-created  
10 issue, and so I would be happy to answer any  
11 questions from the Board, along with Mr.  
12 Parker, or I would be happy to yield the  
13 podium to any comments of the public first at  
the Chairman's pleasure.

14 CHAIRMAN GIAMETTA: Thank you  
15 for your brief. Board members, do we have  
16 any questions or concerns about what was  
17 just presented?

18 (No response)

19 MR. KRAUT: I would be happy  
20 to yield the podium for any comments.

21 CHAIRMAN GIAMETTA: Thank  
22 you. We have no items of concern -- the  
23 Board has no items of concern right now, so  
24 I will now open the floor to public comments  
25 either for or against the proposal, and if

12

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2 you would just state your name before you  
3 speak. Would anyone like to present  
4 something? Your name, sir.

5 MR. GAROFALO: James  
6 Garofalo.

7 CHAIRMAN GIAMETTA: I just  
8 would like you to be aware that there is  
9 quite a forum here, so we don't want to  
10 extend the talks too long.

11 MR. GAROFALO: I am perfectly

RT030917-1847 (1)  
12 willing to yield the podium after three  
13 minutes if I'm allowed to return. And the  
14 reason that I ask this is, if you look at  
15 the town code, it talks about public  
16 hearings. It says full opportunity to be  
17 heard should be given to any resident of the  
18 town. So I would like to come back after  
19 other people have spoke. I have about 25  
20 pages of material to go through, talk about  
21 each of these signs. So you would be happy  
22 to know that it's going to be a long night,  
23 but I wanted to warn you before that.

24 CHAIRMAN GIAMETTA: Well,  
25 let's get started.

13

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2 MR. CONN: Can I ask a  
3 question before you get into that? Has any  
4 of this already been covered, and is any of  
5 your information already going to be  
6 redundant or in meetings that we've already  
7 had? Because if there is any new  
8 information, that's what we're looking for.

9 MR. GAROFALO: This is mostly  
10 new information because the sign plan is  
11 new, only came out fully developed, if that  
12 is what they're going to call it, in  
13 February. So most of this material I would  
14 say is brand new. The Planning Board is  
15 sending this over and deciding, SEQRA did

20 I will make mention of some  
21 things that I have asked the Applicant to do,  
22 the Applicant has done, but maybe not in the  
23 right way that have to deal with signs, but I  
24 will talk about those. And I made some  
25 recommendations to the Applicant, one of the

14

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 representatives following the last Planning  
3 Board meeting, and I will mention those also.

4 CHAIRMAN GIAMETTA: Well,  
5 let's get started.

6 MR. GAROFALO: First, I would  
7 like to say I'm not for or against this  
8 project, but there are things that I think  
9 need to be corrected. I'm not against Mobil  
10 or Dunkin Donuts. My father worked for  
11 Mobil all of his life, so I grew up on  
12 Mobil, and I certainly have had more than  
13 enough Dunkin Donuts in my lifetime.

14 I am certainly a very strong  
15 advocate of codes. I worked on the Greenway  
16 Committee dealing with comprehensive plan as  
17 a lead up to changes in codes. I worked on  
18 the code ordinance, the signs in the last  
19 decade, which never made it to a public

20 RT030917-1847 (1)  
21 hearing, but I certainly recognize the need  
22 for changes in codes. I'm not getting paid.  
23 This is free advice. I hope the Applicant  
24 will take it, and I hope you will listen to  
25 me throughout. I understand you have a very  
difficult job to do, and I'm not going to be

15

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2 making it any easier for you to do with some  
3 of the material that I'm going to be talking  
4 about. One of which is the briefing  
5 document, which should have been provided to  
6 the Planning Board as part of the site plan.  
7 It wasn't. They did material in their data  
8 table on, I think it's SP1 figure, dealing  
9 with zoning, but I think there is some  
10 additional variances which were not on that  
11 table which are now coming to light.

12 So this could have been  
13 brought before you two years ago when you  
14 were dealing with the area variances on the  
15 property. It wasn't. We're only doing it  
16 now, this is the typical thing that  
17 developers do. They don't want to spend  
18 money on designing signs if they don't think  
19 they can get their project through. So  
20 that's something that is fairly normal. I  
21 understand that there is a great difficulty  
22 that if you turn down this application, that  
23 155-45, the denial might delay the entire

24 R1030917-1847 (1)  
24 year, so it's something that you have to be  
25 very conscious of in looking at this, but I

16

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2 am somewhat disturbed about some of the

3 material the Applicant presented in its

4 February 13th letter. Quote, "No less a

5 deviation from the site ordinance, the

6 numerous other existing signs along Route 9W

7 corridor on February 16th, not similar to

8 comparable sites." And I'm going to talk

9 about that specifically and show you that

10 some -- in some cases they are correct, and

11 in other cases they are totally wrong. So I

12 can't totally agree with those statements,

13 but I understand that in some cases they are

14 correct.

Under 155-31-E4J, information is needed on the signs' setbacks, and I think this may only be provided on the monument sign. So if they haven't done that on all of the signs, they need to do that. Under 155-28, it talks about the size of the signs, which is one of things they are going for a variance. And also says, shall include only the names of the establishment and letters no higher than five inches. The fact of the matter is, I don't believe any of the

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   documents tell you how large the letters are.  
3                   They tell you how large the signs are, but I  
4                   think they need to come back and show you how  
5                   large the letters are so that you can give  
6                   them a variance for that, because that is a  
7                   dimensional variation variance.

8                   There are other things on  
9                   their monument sign, open 24 hours, fuel  
10                   technology synergy, drive thru, which are not  
11                   the names of the establishments, therefore  
12                   there is some question in my mind whether or  
13                   not they should be on the sign at all.

14                   Now historically, I want to  
15                   point out that the sign ordinance that was  
16                   done, I think, in 1972, and the -- when you  
17                   look at drive thru places like McDonald's,  
18                   they didn't even want to start doing drive  
19                   thrus until 1975. So this is not something  
20                   in '72 that was a very common place. This  
21                   law was really granted well before drive  
22                   thrus were as popular as they are today.

23                   I will point out that, you  
24                   know, my background is Bachelor's in civil  
25                   engineering, Master's in transportation,

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   planning, and engineering. I am very  
3                   concerned with safety, and this is one of  
4                   things that I will be talking about with  
                         Page 15

5 regard to these signs.

6 So let me talk about some of  
7 the signs. Specifically, you can't see that,  
8 but this sign right over here (indicating) on  
9 the northern access on the right side, see  
10 you soon sign is blocking the sidewalk. It's  
11 the only sign in the state right of way,  
12 which means it's technically an off premises  
13 sign, which should be handled under 155-28A.  
14 There would need to be an agreement for an  
15 easement for repair in fixing of the sign.  
16 To me, that sign is a distraction to people  
17 leaving who should be paying attention to  
18 pedestrians on the sidewalk and traffic in  
19 the road, not reading a sign like that. It's  
20 also a very low sign, and I will provide data  
21 on the height. This is a table, this is an  
22 entire report on heights of people. And,  
23 particularly, I got one extra page here,  
24 which talks about the height of 19-year-olds,  
25 which is when you look at 85th percentile is

19

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 over 6 feet. I'm going to leave this with  
3 the Board so they can take a look at that.  
4 what I'm concerned about, the height of those  
5 signs, particularly since that one is in the  
6 sidewalk, I would suggest that under  
7 155-40CB, this could be done in a different  
8 way. And I've seen it on Route 44 in  
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9 Pleasantville at Dunkin Donuts where they put  
10 a sticker on the side of the door when people  
11 are leaving that gives a positive message. I  
12 don't know if this was the exact message, but  
13 let me just stick it on the back of the door,  
14 see you soon, or whatever you want to do, not  
15 part of the sign ordinance, but it's another  
16 way to do it. This is something that  
17 employees should be saying also. So is there  
18 another way to do that? I think, yes, there  
19 is certainly another way to do that. I don't  
20 think putting a sign in the state right of  
21 way. And one of the things that I think is  
22 lacking is DOT has requested that they  
23 provide details to the sidewalks and they  
24 even have a note see sidewalk detail on one  
25 of their plans, yet there is no sidewalk

20

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2 detail. Certainly, seeing a sidewalk detail  
3 where these signs are, I think is very  
4 important, particularly this one, which is in  
5 the state right of way. There certainly  
6 should be a cross section, and under section  
7 155-31-E4, it mentions bicycle racks and  
8 sidewalks need to be designed, and  
9 construction materials need to be provided.  
10 Clearly, I think they need more details on  
11 the sidewalk and where these signs are going  
12 on the sidewalks.

13 I certainly want to give some  
14 credit to the Applicant because he has done  
15 certain things to respond to these comments,  
16 such as putting in the sidewalks, agreeing to  
17 put in bicycle racks, although he hasn't  
18 really -- he's defined where they're going to  
19 go, but he hasn't defined what they are.

20 Next, the north driveway,  
21 welcome back sign, to me, this is distracting  
22 drivers. It doesn't really serve any  
23 purpose, that the person there could not say,  
24 thank you for coming, welcome back, glad to  
25 be of service, or what have you. It doesn't

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 serve any real traffic purpose. The welcome  
3 back sign on the south driveway is, again, in  
4 the sidewalk and, again, I think distracting  
5 to drivers, and provides no real information  
6 to that. They're already coming in, they  
7 already know where they're going into, okay.

8 MR. CONN: Mr. Garofalo, can  
9 I interject for a moment? only because the  
10 three-minute time limit was exceeded about  
11 seven minutes ago.

12 MR. GAROFALO: Okay. That is  
13 fine.

14 MR. CONN: But it seems like  
15 most of what you are saying and bringing up  
16 for discussion is the placement of the  
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17 signs, not the area variance that is being  
18 discussed at the public hearing tonight.  
19 The placement of signs is not really our  
20 ruling. That's more of a planning board --

21 MR. ZAMBITO: Planning board.

22 MR. CONN: -- ruling. So it  
23 seems like most of what you're bringing up  
24 for discussion is, one, a planning board  
25 issue. And, two, a placement issue, not an

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2 area variance issue.

3 MR. GAROFALO: It's an  
4 existence issue too.

5 MR. CONN: But that's not  
6 really for us to decide. We're here to talk  
7 about the area variance that the Applicant  
8 is bringing up, whether it's the size,  
9 number of signs.

10 MR. GAROFALO: Number of  
11 signs. I'm saying these signs shouldn't  
12 exist, okay.

13 MR. CONN: Well, you're  
14 saying they should exist, but you're also  
15 giving us other areas where they could  
16 exist, but that is not in front of us right  
17 now.

18 MR. GAROFALO: No, I'm saying  
19 there is a different way that they could do  
20 it, not a different way that a sign could

21 exist.

22 MR. CONN: It's not for us to  
23 tell the Applicant where they should put  
24 their signs. This is an area variance  
25 public hearing, not a planning board, where

23

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2 it should be placed, for them to decide  
3 where that goes. So, you know, we're -- I'm  
4 sure there are other people that want to  
5 speak tonight, and if we can kind of try to  
6 stick to the topics on what's on the agenda,  
7 which is an area variance for the signs for  
8 Chestnut Petroleum, that might help expedite  
9 things for all of us.

10 MR. GAROFALO: Okay. Let  
11 them talk, and then I will come back and  
12 finish, okay, and I hopefully will stick to  
13 that particular topic.

14 MR. CONN: Thank you.

15 CHAIRMAN GIAMETTA: Thank  
16 you, Mr. Garofalo.

17 MR. GAROFALO: You're  
18 welcome.

19 CHAIRMAN GIAMETTA: Do we  
20 have some other individuals that would like  
21 to say something?

22 MR. RUSK: Yeah, I would like  
23 to speak. I'm happy though to defer for Mr.  
24 Garofalo to complete his presentation,

25

because I think it is pretty significant.

24

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   And I disagree with members of the Board who  
3                   say that his discussion is not relevant.  
4                   The Applicant is asking for, I believe it's  
5                   16 signs, when he is only allowed two, and I  
6                   think Mr. Garofalo's point is some of these  
7                   signs serve no purpose whatsoever. Welcome  
8                   back, and see you soon, serve no purpose  
9                   whatsoever. Yet these are variances which  
10                  the Applicant is seeking. I think the point  
11                  he makes, whether they're located along the  
12                  sidewalk or someplace else, is the total  
13                  number. So I think that his comments are  
14                  completely relevant and he should be able to  
15                  speak fully and freely to address those  
16                  issues. But since I started, and I will  
17                  come back, so other people can speak as  
18                  well.

19                  In the local paper this week  
20                  there was a beautiful article about what Mr.  
21                  Pollack is doing in downtown Milton to try to  
22                  renovate and improve this area, and he talked  
23                  about there being -- using insight and good  
24                  planning and not making a knee jerk reaction,  
25                  and I ask this Board to take those kinds of

25

1 RT030917-1847 (1)  
2 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
3 considerations when they're considering this  
4 variance application. I'd also ask you,  
5 despite the Applicant's presentation about  
6 how the signs are routinely -- the sign  
7 ordinance is routinely disregarded, I'd like  
8 you to think about the project of the Stewart  
9 shop with a four by eight sign out front,  
10 fully complies, and the sign on their  
11 building and, you know what, there is no  
12 other lighting on the canopy, there is no  
13 other entrance signs or exit signs, and that  
14 is good planning. That, as much as I dislike  
15 the Applicant's proposal, I submit that that  
16 is what they should be aiming for is the type  
17 of signage that is on there. There is no  
18 exterior or canopy sign. There is no  
19 entrance/exit signs. There is simply a four  
20 foot by eight foot sign out in front and a  
21 sign on the building, and I'd ask that you  
22 consider, if you're going to grant a  
23 variance, that it be limited to items very  
24 similar to that. Because, otherwise,  
25 everybody in town is going to be coming in  
here and seeking a variance in front of this

26

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 Board, because you have to think about what  
3 it's going to do to the rest of the  
4 community.

RT030917-1847 (1)

You know, this is an

undersized lot to begin with. First they were granted a variance to put something up on a lot that's too small. Now they come in and they want to put up 16 signs when they're allowed 2. This is just going to be a pile of signs that everybody is going to drive by and, to think, that this is going to be an improvement for our town. I submit it's going to be a detriment, and thinking about the welfares of our community, 16 signs that they're asking for is completely inappropriate.

18 I also don't know when the  
19 standards became, you should give us what we  
20 want because nobody else follows the law. I  
21 could tell you when people come in and are  
22 charged and prosecuted on some type of crime,  
23 that doesn't really get too far, and I don't  
24 know why it should get that far -- very far  
25 at all in front of this Board because you too

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 play the same role as a judge, a quasi  
3 judicial role of evaluating their application  
4 with what the requirements are in the zoning  
5 code. You also need to look at all of the  
6 factors, and we went through them the last  
7 time when we sought the variance to develop  
8 upon a smaller than a two-acre parcel, those

11 And how the Applicant and the  
12 representative can say that this is not a  
13 self-imposed hardship. There is nobody else  
14 interested in sticking any signs on that lot,  
15 other than the Applicant, and he is the one  
16 asking for this 15 or 16 signs. So how he  
17 can explain that that's not a self-imposed  
18 hardship, maybe he can explain that statement  
19 to us, because I don't understand that.

20 The directional signs that he  
21 is asking for that are going to be lit, there  
22 has already been a presentation, and I can't  
23 remember if it's in front of this Board -- I  
24 don't think it was -- but I think was in  
25 front of the Planning Board that there is

28

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 already going to be a requirement that signs

3 be posted for traffic coming in and off the

4 highway about where they can go in, who can

5 make a left turn, who can make a right turn.

6 These signs are redundant, they don't need to

7 be on the site. I also don't believe that

8 there is any reference to the sign board, and

9 I submit that that is considered a sign, this

10 menu board that they're supposed to be

11 putting up, and I don't know if that is

12 considered part of this application or not.

RT030917-1847 (1)

13 The last point that I will  
14 make before I sit down is, I would  
15 respectfully submit that the notice that was  
16 sent out by the Applicant or by the town on  
17 the Applicant's behalf is insufficient. I  
18 don't believe that adequate notice was  
19 provided to the members of the community or  
20 those people who are entitled to it because  
21 of their proximity to the site. I don't  
22 believe that that notice is sufficient. It  
23 doesn't give any detail explanation of what  
24 the variance is for, whether it's for a size  
25 of a particular sign or the number of signs,

29

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 and I would submit that application should be  
3 required to submit more detail notice and  
4 should have to go through this process again.

5 I will also point out that  
6 under the area variances, which is why they  
7 are here, I would submit to you that there is  
8 no authority that this has to expand the  
9 number of signs. The area variances talks  
10 about dimensional requirements, and that  
11 might address issues such as the size of  
12 signs, but it doesn't affect the number of  
13 signs. And based upon that, I submit that  
14 this Board doesn't have the authority to  
15 grant a variance as to the number of signs.  
16 That is something that would have to be

17 RT030917-1847 (1)  
18 amended by legislation, which would be to  
19 amend or change the sign law, which I know is  
20 already in discussion, but I don't think that  
21 you have the authority to grant a variance as  
22 to the number, only as to the dimensional  
size of a sign. Thank you.

23 CHAIRMAN GIAMETTA: Thank you  
24 very much, Mr. Rusk. Someone else would  
25 like to present some material?

30

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 MR. SCOTT CORCORAN: Scott  
3 Corcoran, 17 Green Tree Lane, Milton. Just  
4 as John brought it up, I want to point out  
5 to the Board, to the public that the Town  
6 Board itself is working on a new sign law.  
7 As James said, it has not been updated since  
8 1972. We know we do have some out of  
9 compliances along 9W. The Town Board is  
10 taking this project into consideration into  
11 the new sign law with others within the  
12 town. 9W, we're talking about 9W corridor,  
13 we're not talking about hamlets, and I agree  
14 the hamlet of Milton, the hamlet of  
15 Marlborough are totally different breeds of  
16 categories of signs. John, I would agree  
17 with you there, of Mr. Pollack's rendition  
18 of downtown hamlet in Milton, that's a  
19 totally different atmosphere. What we're  
20 talking about here is 9W highway development

21 RT030917-1847 (1)  
22 signage. I personally went around town and  
23 through parts of the Middlehope and parts of  
24 Highland to measure signs to give us some  
25 kind of guidance as a Town Board. I could  
tell you that Sunoco that is up in Highland,

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 that is signage that is similar to the  
3 signage that is being presented. The one  
4 main sign -- I'm talking about -- the main  
5 sign is 65 square feet for one side. That  
6 would be a total of 130 square feet. I  
7 think the Applicant sign here is 59, almost  
8 60 for one side, so it's kind of similar in  
9 size. It's actually a little smaller. So  
10 it's not unprecedented like from Ulster  
11 County. That's an Ulster County territory.  
12 So from Ulster County Planning Board, it was  
13 something seen by Ulster County Planning  
14 Board and approved through Ulster County  
15 Planning Board, so I don't think it's out of  
16 the realm of possibility.

17 I could tell you that we are  
18 considering a signage of that statute to be  
19 around 60 to 64 square feet. We will be  
20 considering the signage of one side being  
21 measured, not multiple signs. I think John  
22 brought up Stewart's. Stewart's actually is  
23 out of compliance with the standards of law,  
24 because it's only 32 square feet for one side

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   sign, and that also includes the side on the  
3                   building, so I think they are out of  
4                   compliance.

5                   MR. CONN: It's an accessory  
6                   structure in the front yard.

7                   MR. GAROFALO: I agree, it's  
8                   a great sign. I agree, I like the sign. I  
9                   like the look of the signage. It's a  
10                   different footprint, okay. It has a little  
11                   more landing in front. I agree that this is  
12                   a more challenging spot, and it's going to  
13                   call for more of a lateral monument type  
14                   sign that goes straight up than it does  
15                   straight to the ground, because of the way  
16                   the topography of that property.

17                   So I just wanted to point out  
18                   that the Town is working on a new sign law.  
19                   We have made measurements up and down 9W, and  
20                   I would believe that if the new sign law is  
21                   passed by the Town after public hearing, that  
22                   this project would conform to that new sign  
23                   law. So that is just my thoughts, I wanted  
24                   to point them out, and I appreciate John  
25                   talking about that.

2 CHAIRMAN GIAMETTA: Thank  
3 you. Anyone else wish to present material?  
4 Mr. Garofalo.

5 MR. GAROFALO: I came with  
6 some of my own photographs. This is a  
7 photograph of an entry sign to a Dunkin  
8 Donuts. Most of the ones that I visited  
9 have no such signs as these, but one of the  
10 things that you will notice that this does  
11 not have a logo, does not have a symbol. It  
12 is strictly words. This is a entrance of a  
13 Dunkin Donuts on Route 44. On the north  
14 side there is a Citgo next to it, which  
15 shares a driveway. There are no welcome  
16 signs, see you soon signs there either.  
17 Here is a Mobil station on the same road, it  
18 doesn't have one. Here is another photo of  
19 a Dunkin Donuts, no such signs. Talking  
20 about the Highland station, this is their  
21 exit onto Route 9W, doesn't have any of  
22 those signs. That is a Sunoco with a Dunkin  
23 Donuts. This is their entrance from Route  
24 9W. Again, doesn't have any of those signs.  
25 This is the entrance from the side road to

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 the same facility, there are none of those  
3 signs. The next picture that I have is of  
4 the Stewart's. You will notice that --  
5 actually, two photos, you will notice that

6 there is no canopy sign at all. The one  
7 photo that you got from the Applicant of the  
8 Citgo has no canopy, okay, at all, okay.  
9 Stewart's has a canopy, but there are no  
10 signs on the canopy.

11 I would also note that the  
12 Highland store, and I will show two pictures  
13 of those so you can see all of the angles,  
14 does not have a canopy. The Applicant is  
15 proposing four canopy signs that are lit in  
16 the front yard. Those -- that configuration  
17 does not exist in Marlboro, period. I don't  
18 remember ever seeing any of these entrance or  
19 exit signs, welcome, anything similar to that  
20 anywhere on Route 9W in Marlboro. There  
21 is -- I know there is one in Newburgh, but I  
22 don't remember ever seeing one, and I  
23 certainly wouldn't -- if the Applicant can  
24 find one to bring forth a picture of it, but  
25 I think that that is one of the areas where I

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 say, this is similar in both of those areas.

3 MR. ZAMBITO: Can I ask you a  
4 question?

5 MR. GAROFALO: Sure.

6 MR. ZAMBITO: You're  
7 affiliated with DOT; correct?

8 MR. GAROFALO: No. I did  
9 work for Rhode Island DOT approximately 25  
Page 30

10 years ago.

11 MR. ZAMBITO: So you're  
12 versed in that. So my question is on a lot  
13 of these pictures you're showing us they're  
14 state signs that are posted one way, one  
15 way, one way, do not enter.

16 MR. GAROFALO: Yup.

17 MR. ZAMBITO: So, in your  
18 opinion, you're saying those signs are  
19 posted, that they shouldn't be putting  
20 additional signs that tell you the same  
21 thing?

22 MR. GAROFALO: Well, the  
23 signs that they are putting in, see you  
24 soon, welcome, those signs --

25 MR. ZAMBITO: I thought you

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 were talking directional signs, enter, exit.

3 MR. GAROFALO: No. I put  
4 that in -- first one is simply to show you a  
5 similar sign.

6 MR. ZAMBITO: Because,  
7 honestly, looking at these pictures, me as a  
8 resident of this town, I would be upset that  
9 those signs are there. I understand what  
10 you are saying, you don't want to see these,  
11 come back soon, whatever, but at the same  
12 time I'm seeing, do not enter, one way,  
13 signs tilted, to me, that's an eyesore. I'd

14                   rather see, and I remain neutral in this  
15                   whole thing, I would rather see a  
16                   professional sign that says, exit or enter  
17                   and whatnot, rather than looking at these  
18                   pictures that you just showed me here. That  
19                   is taking away from our whole town, as far  
20                   as I'm concerned.

21                   MR. GAROFALO: Those are  
22                   standard signs --

23                   MR. ZAMBITO: Yup.

24                   MR. SALINOVICH: -- that  
25                   everyone across the nation would see.

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1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2                   MR. ZAMBITO: Yup.

3                   MR. GAROFALO: So they are  
4                   very consistent in the size and the  
5                   placement.

6                   MR. ZAMBITO: But do you  
7                   agree, by looking at those pictures --

8                   MR. SALINOVICH: No.

9                   MR. ZAMBITO: Do you agree  
10                   that those signs are an eyesore?

11                   MR. SALINOVICH: No.

12                   MR. ZAMBITO: The one way,  
13                   the do not enter, tilted, it's terrible. I  
14                   would rather see a professional sign myself.  
15                   I'm just asking you personally.

16                   MR. SALINOVICH: No.

17                   MR. ZAMBITO: You would be  
Page 32

18 more happy seeing that?

19 MR. GAROFALO: Yes. Also,  
20 because I know the way those signs are built  
21 that the vehicles can run over them and they  
22 won't hurt the passengers in the cars. I  
23 don't know enough about the way their signs  
24 are designed to know if they would or would  
25 not hurt a passenger in the car. The height

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 on those signs, the reason why they're so  
3 high is so that you wouldn't hit your head  
4 on them. All right? Whereas, their signs,  
5 even the ones in the sidewalk, somebody  
6 could walk into.

7 MR. ZAMBITO: Someone  
8 obviously backed into them. That's  
9 acceptable? I'm just asking.

10 MR. GAROFALO: Yes, I would  
11 rather --

12 MR. ZAMBITO: But a  
13 professional sign is not acceptable?

14 MR. SALINOVICH: Not if it's  
15 going to hurt the drivers and the  
16 passengers.

17 MR. ZAMBITO: Well, I would  
18 imagine there is some kind of guideline.  
19 The DOT says it's got to be at a certain  
20 height, right or wrong, for visibility and  
21 setback?

22 MR. GAROFALO: For DOT signs.  
23 MR. ZAMBITO: But they would  
24 have to conform to that; right or wrong?  
25 MR. GAROFALO: No.

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 MR. ZAMBITO: If the DOT says

3 the signs have to be so many feet off of the

4 right of away, and it has to be at a certain

5 height for visibility, they don't have to

6 conform to that?

7 MR. GAROFALO: Visibility for

8 site distance, yes.

9 MR. ZAMBITO: Okay. That's

10 my question.

11 MR. GAROFALO: Three and a

12 half feet.

13 MR. ZAMBITO: So if they can

14 conform to what the state says they have to

15 do, that particular sign, you're saying that

16 shouldn't be acceptable? I am just asking.

17 MR. GAROFALO: If it's in the

18 state right of way, then it has to conform

19 to whatever state -- the state says.

20 MR. ZAMBITO: Absolutely.

21 MR. GAROFALO: And the state,

22 because this is a state route, is going to

23 say you have to set back a certain number.

24 MR. ZAMBITO: If they can

25 conform to that --

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2                   MR. GAROFALO: And you have  
3                   to be --

4                   MR. ZAMBITO: So if they  
5                   conform to that, what's the argument after  
6                   that? Let's just say they conform to what  
7                   they say. What's the argument after that?  
8                   I'm just asking you.

9                   MR. GAROFALO: Number one,  
10                   it's --

11                   MR. ZAMBITO: I'm trying to  
12                   understand your point.

13                   MR. GAROFALO: If you have  
14                   too many signs, okay, you can't read them  
15                   all, and you get distracted from looking at  
16                   the things that you should be, such as the  
17                   pediatricians on the sidewalk, such as the  
18                   vehicles in the road. That is --

19                   MR. ZAMBITO: But isn't that  
20                   the reason why we put into effect their  
21                   standard of height and setback so that  
22                   you're not conflicting with the pedestrians?

23                   MR. GAROFALO: A limited  
24                   number of signs.

25                   MR. ZAMBITO: And limit the

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 RT030917-1847 (1)  
number of signs?

3 MR. GAROFALO: Yes.

4 MR. ZAMBITO: okay. I'm just  
5 trying to understand. That is all. Thank  
6 you.

7 MR. GAROFALO: You're  
8 welcome. They have two bars -- they have  
9 one bar here (indicating), and originally I  
10 had asked them to show how it was going to  
11 be planted because they just basically had  
12 it over the road, and they actually did a  
13 detail on this sign, but you could actually  
14 bypass not going under the sign. This is a  
15 height sign. It says drive thru, which I  
16 think is perfectly okay. I think it's good,  
17 except they need to cover the whole area,  
18 okay. So they may need another one of those  
19 on the other side, or this one has to be  
20 longer.

21 MR. MEKEEL: That's Planning  
22 Board.

23 MR. CONN: You're still into  
24 Planning Board.

25 MR. ZAMBITO: I think that's

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 a Planning Board issue.

3 MR. GAROFALO: That is  
4 another sign -- we're talking about the  
5 number of signs.

RT030917-1847 (1)

MR. ZAMBITO: So just now you  
ld put in an additional sign?

MR. GAROFALO: For here, this one or put another one. coverage.

MR. CONN: But you're  
but the number of signs that  
aren't in compliance with the  
law, and you just said they  
other sign.

MR. GAROFALO: This is for  
is so vehicles over 9 feet  
to drive underneath and damage  
the building, so for safety.

MR. CONN: So the 15 signs  
asking for a variance for  
we should actually ask the  
ut in another application for  
a 16th sign based on your

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## PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

MR. GAROFALO: And get rid of  
other signs.

MR. CONN: Okay.

MR. GAROFALO: Replace some of the other signs with one that is actually needed for safety, or make this one bigger.

MR. CONN: We're still back to Planning Board issue, but continue.

RT030917-1847 (1)  
MR. GAROFALO: Number

11 signs, okay. Certainly, there is nothing to  
12 prevent the Applicant from putting in the  
13 wiring, et cetera, for these signs. The  
14 note saying that these signs will be  
15 installed if approved under the new code.  
16 That's another option that the Applicant has  
17 to get these things through. I won't deal  
18 with the direction of signs. Certainly  
19 there is a question in my mind whether the  
20 sign on the drive thru that they have here  
21 facing both ways, whether that's really  
22 necessary. You have people that are already  
23 waiting in line at the drive thru, they  
24 already made their order, they know they're  
25 there for Dunkin Donuts, and I'm not sure if

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 they're going to be able to see this sign  
3 too well once they come around the corner  
4 because of the awning.

5 MR. ZAMBITO: So would that  
6 not be a safety issue, a safety sign,  
7 directing them in the right direction?

8 MR. GAROFALO: No.

9 MR. ZAMBITO: Because you  
10 have to think to yourself people are stupid.  
11 So maybe they need that sign to make sure --  
12 I'm just saying, maybe that is a safety  
13 issue that Dunkin Donuts came up with from

14 RT030917-1847 (1)  
15 previous incidents possibly. I don't know,  
16 I'm just saying.

17 MR. GAROFALO: I'm saying you  
18 can't see that sign. Because what you  
19 should be doing when you're coming around  
20 this corner is not looking up at the sign,  
21 you should be looking at the car in front of  
22 you and moving up when he moves up and  
23 stopping when he stops. Nobody else has  
seen that sign.

24 MR. ZAMBITO: I think we're  
25 splitting hairs here now.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 MR. CONN: Is this for cars  
3 coming around the building or cars that are  
4 maybe at the other end of the building  
5 seeing the drive thru --

6 MR. GAROFALO: It's two  
7 sides.

8 MR. CONN: -- and they need  
9 to go around?

10 MR. GAROFALO: So I'm saying  
11 they don't need it on this side. There is  
12 no reason to have it on that side. Okay.  
13 Yeah, maybe it will show people where that  
14 is, okay, and even the sign over here  
15 (indicating) that says drive thru. I would  
16 turn that 90 degrees so people here can see  
17 it, people coming in here, coming in the

18 RT030917-1847 (1)  
19 north driveway will see the overhead bars  
20 that say drive thru. They also will see  
21 this sign. These people see nothing, okay.  
22 It should be rotated 90 degrees. Yeah,  
23 that's a Planning Board issue. I will have  
24 to talk it up with them.

25 CHAIRMAN GIAMETTA: Mr.  
26 Garofalo, I want to ask Mr. Blass, has this

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 sign presentation gone to the Planning Board  
3 for initial review?

4 MR. BLASS: It's in front of  
5 the Planning Board now.

6 CHAIRMAN GIAMETTA: Have they  
7 seen it?

8 MR. BLASS: Yeah, it's been  
9 in front of the Planning Board since it was  
10 submitted on or about February 1st. So this  
11 is a February 1st modified sign plan. The  
12 modifications to the sign plan come from the  
13 Applicant's response to recommendations by  
14 Ulster County Planning Board made on January  
15 4th. So the sign program has been in a  
16 state of modification since the Ulster  
17 County Planning Board's recommendation with  
18 respect to the overall site plan on January  
19 4th. Then a modified site plan, I think  
20 dated February 1st, was submitted. It  
21 replaced the initial proposed sign along the

22 RT030917-1847 (1)  
highway with a monument sign in an effort to  
23 comply with the recommendation.

24 So, the Planning Board has  
25 not decided on the plan yet. The Planning

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 Board has issued a negative declaration on  
3 February 21st with respect to signage,  
4 finding there are not to be any significant  
5 adverse environmental impact, thereby,  
6 clearing the way for you to entertain this  
7 variance application. So did I answer your  
8 question?

9 CHAIRMAN GIAMETTA: You did  
10 in a way, but I want to be clear, did this  
11 version on the easel go before the planning  
12 board for review?

13 MR. BLASS: It's in front of  
14 the planning board now.

15 CHAIRMAN GIAMETTA: It's in  
16 front of the Board, in other words, for next  
17 meeting?

18 MR. BLASS: Yeah, for next  
19 meeting. It's not approved.

20 CHAIRMAN GIAMETTA: It's not  
21 approved?

22 MR. BLASS: It's not  
23 approved. The site plan is not approved.  
24 The special permit is not approved. But it  
25 has gone so far as to achieve a second

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 amended negative declaration under SEQRA by  
3 the Planning Board on February 21. So this  
4 signage plan was in front of the Planning  
5 Board on February 21st when they issued that  
6 determination of significance.

7 CHAIRMAN GIAMETTA: Mr.  
8 Garofalo, did you attend the Planning Board?

Now, I don't really have a problem with their monument sign, other than I think the size of the lettering on it is somewhat questionable, but I think what the

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 county was saying in their letter was, A,  
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3                   they wanted them to change the monument sign,  
4                   and B, they wanted the Town to look at their  
5                   code and deal with signing, and I don't think  
6                   that they specifically were addressing the  
7                   number and all of the other issues dealing  
8                   with signs.

9                   So, one of the things that I  
10                  think they need to do, certainly, is give you  
11                  the letters of the size, because I think  
12                  that's one thing they need a dimensional  
13                  variance for, and you can't tell what size  
14                  any of the letters are on any of these signs,  
15                  other than they are going to be smaller than  
16                  the sign itself. When it comes to the  
17                  content, that's something that I have to  
18                  leave to the lawyers to argue, because once  
19                  you start dealing with content on signs, you  
20                  start dealing with free speech. But I think  
21                  our code is very clear, that it's only  
22                  supposed to be the businesses. So, in  
23                  general, I'm not against the monument sign,  
24                  having extra signs on the building. I do  
25                  disagree with a lot of these other signs and

1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   how they're located, how many there are. If  
3                   you end up with this many signs on every  
4                   single property, you're not going to like it.  
5                   It's going to look like -- not good.

6                   And I think that this is  
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7 something that I would challenge them to show  
8 where the closest property is similar to this  
9 that they have, and how many that they have  
10 in that same radius from this site that  
11 doesn't have it. There are very few places  
12 on Route 9W that has that kind of sign.  
13 Again, there is one that I know of. That is  
14 about it.

15 I certainly would question  
16 the chair after your meeting, I would  
17 certainly like to meet with a representative  
18 of the board, our town board's representative  
19 and the applicant here in open area because I  
20 want to talk to them about another variance  
21 that they may need as well as a federal  
22 violation, but that I think they can easily  
23 clear up. I would like to have your  
24 permission to be here to talk to them. And,  
25 of course, they may not want to talk to me,

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 but so be it. I will mention it at the March  
3 20th meeting. If they don't want to hear  
4 about it now, they can hear about it then.  
5 But I certainly, in the spirit of  
6 cooperation, want to give you this  
7 information early so they can correct it.  
8 Thank you.

9 MR. ZAMBITO: Thank you.

10 CHAIRMAN GIAMETTA: Thank  
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11 you. Other members of the audience, anyone  
12 wish to contribute?

13 MR. RUSK: I just want to add  
14 a couple of things maybe. The Applicant  
15 hasn't established a need for this area  
16 variance. Have they submitted anything to  
17 this Board to this issue that they need  
18 this? Have they submitted anything, any  
19 type of an economic hardship that they need  
20 a larger sign than what the town code  
21 provides? They submitted nothing. They  
22 submitted absolutely nothing about it.  
23 That's their burden to carry in front of  
24 you. Where have they submitted anything  
25 that says that they cannot comply with the

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 codes? What's the hardship that's been  
3 imposed upon them? Have they provided  
4 anything to you? I submit they haven't.  
5 Why can't they comply? If they haven't met  
6 that burden, they shouldn't be granted a  
7 variance. It's simply, This is what we  
8 want. This is what we want. It doesn't  
9 matter what's up in Highland on their signs,  
10 at their gas stations. This Board doesn't  
11 have control over that. This Board has  
12 control about what happens in this town, and  
13 when you decide what happens in this town,  
14 you follow the code ordinance in this town,  
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15 and that's what you comply with. And if the  
16 Town Board thinks that they're going to  
17 change the sign law to help accommodate this  
18 Applicant, like they changed the law in the  
19 past to accommodate this Applicant, then the  
20 Applicant has to wait until the laws change.  
21 That's not a factor for this Board to  
22 consider what the future sign law might be.  
23 That's irrelevant. And what's occurring in  
24 other towns is irrelevant. The question is  
25 what's the town code here, and what's the

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 best in compliance with the zoning code  
3 here. And there has been nothing presented  
4 by the Applicant to explain why they need  
5 this variance. Why do they need Mobil logos  
6 on the canopies? Have they explained that?  
7 other than, well that's the modern gas  
8 station, that's what they have. That's no  
9 reason to put them up on a canopy.

10 CHAIRMAN GIAMETTA: Anyone  
11 else?

12 MR. CONN: Something Mr.  
13 Garofalo said. Mr. Garofalo, you said that  
14 there was no other places in Marlborough,  
15 businesses in Marlborough that had the  
16 number of signs that they are requesting a  
17 variance for.

18 MR. GAROFALO: That I know  
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19 of.

20 MR. CONN: Well, the  
21 Applicant supplied these pictures, and I  
22 would be happy for you to look at them, but  
23 just several of them, the Marlborough Plaza  
24 has ten ladder signs, plus a sign on every  
25 building, either door and/or over top of

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 their door, which would be at least 20 to  
3 30. Milton Hardware has 10 different ladder  
4 signs advertising supplies that he carries,  
5 services that he has there. Plus, at least  
6 four more either in the front of the  
7 building or on top of the building. Affuso  
8 has a ten-ladder sign, plus every business  
9 there either has a sign on the window and/or  
10 on top of the roof advertising it. So there  
11 is another 20 to possibly 30 signs just for  
12 that area. So you -- I just wanted to clear  
13 up something that you had said, and this  
14 is -- these are just examples of something  
15 the Applicant had submitted here tonight.

16 MR. GAROFALO: But none of  
17 them have the welcome signs, see you soon  
18 signs, or any of those types of signs or  
19 canopies.

20 MR. CONN: Your statement was  
21 a total number of signs in variances that  
22 the Applicant is asking for, and no one else  
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23                   in Marlborough had that, to your knowledge.  
24                    MR. RUSK: Are any of those  
25                    less than two acres in size?

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1                    PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                    MR. CONN: I don't have that  
3                    information in front of me, Mr. Rusk.  
4                    CHAIRMAN GIAMETTA: Mr.  
5                    Blass, are we at liberty to ask the  
6                    Applicants to respond to some of these  
7                    concerns?  
8                    MR. BLASS: Sure.  
9                    CHAIRMAN GIAMETTA: Would  
10                   you, counsel?  
11                   MR. KRAUT: If you've  
12                   concluded the public comment session, I  
13                   would be happy to, and then I can hit them  
14                   all at once.  
15                   CHAIRMAN GIAMETTA: Let me  
16                   just ask once again, anymore comments from  
17                   the public on this matter?  
18                   (No response)  
19                   MR. KRAUT: Very well then.  
20                   Then I will sum up, your Honor. A couple of  
21                   comments, but not in any particular order,  
22                   but certainly I can address any others  
23                   across the board. I won't necessarily hit  
24                   them in perfect order. I think I'm going to  
25                   go nonsequential.

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2  
3 First off, our signage plan  
4 provides different types of signs. If you  
5 think about it from a logical perspective, it  
6 provides designation signs, product and  
7 service signs, and what are commonly referred  
8 to as way finding signs. To have a site that  
9 functions in an orderly manner that can offer  
10 product and service combinations that the  
11 public will find recognizable. As the Board  
12 is imminently aware, in order to attract a  
13 nationally branded coffee, we do have to  
14 offer -- excuse me, we do have to accept from  
15 them as part of the offer their signage  
16 demands. I do recognize that this signage of  
17 various entities changes over time, and there  
18 certainly are sites that I can point to for  
19 Dunkin Donuts in a variety of places that are  
20 outdated, but on their newer signs, their  
21 imaging the same is true. In the petroleum  
22 industry, and we represent quite a few  
23 organizations in that industry, they  
24 generally try to be uniformed and  
25 contemporary in keeping with all of their  
marketing materials.

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 we took very much in

3 RT030917-1847 (1)  
4 consideration with this sign plan, the  
5 location and context, the size of the site,  
6 and the necessity to accommodate their  
7 request, all of those things were considered.  
8 With regard to one comment that was made as  
9 to whether or not the alleged difficulty was  
10 self-created, it's an interesting topic of  
11 debate, even among lawyers, because if you  
12 think about it, as a zoning board, you could  
13 make the argument that every application that  
14 ever comes before you for an area variance is  
15 self-created. The person wants to add a  
16 bedroom, well, they've created a problem. If  
17 they want to have a front porch, they created  
18 a problem. That's not typically though what  
19 lawyers agree is a self-created hardship.  
20 More of a self-created hardship would be  
21 extending a deck without a permit, and now  
22 coming and saying, I can't comply.

23 But putting that aside, the  
24 most important thing is that that is standard  
25 on all of the developed case law, is arguably  
the least important one because it's not

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 dis-posed in any regard whatsoever. The  
3 real crux, I think as this Board has done in  
4 many other applications, is looking at things  
5 in context. And the reason why early on when  
6 I spoke, I indicated that there are a lot of

7 RT030917-1847 (1)  
8 other properties that we can point to that  
9 have signs up that exceeds and is similar to  
10 ours, but most importantly exceed the  
11 ordinance is because, as I think Mike has  
12 pointed out, the ordinance is outdated. It  
13 does not keep up with contemporary signage.  
14 I did not say, and I want the record to be  
15 clear, I did not say that the standard is  
16 because everyone else is doing it, we should  
17 be allowed to do it too. In fact, that would  
18 be more the behavior of an Applicant that  
19 rather than asking you for permission, which  
20 is what we are doing, did it first and then  
21 came back and asked for forgiveness. I'm not  
22 saying that. I'm not saying your standard  
23 is, Hey, everyone else has it. What I'm  
24 saying is when you look at whether or not it  
25 would produce an undesirable change, which is  
what you're required to look at, I say, How

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 could you say it's going to create some  
3 change, let alone you put aside whether it's  
4 an undesirable change. It's not going to  
5 create a change when you really have that on  
6 the entirety of the corridor.

7 There was a comment that  
8 notices insufficient. I would submit without  
9 getting into a long-winded dissertation on  
10 it, that the legal notice, A, is absolutely

11 RT030917-1847 (1)  
12 sufficient, and B, anyone who wishes to  
13 challenge the legal sufficiency of it can go  
14 ahead and do so. But interestingly enough,  
15 the one party that can't challenge  
16 successfully improper notice, if someone is  
17 actually present to address the board,  
because clearly they have notice.

18 The suggestion that this  
19 Board does not have the authority to grant  
20 the variance requested because part of what  
21 we're asking for is an increase of the number  
22 of signs submitted -- requested, to me is  
23 very much off the mark in terms of what  
24 zoning boards are allowed to do as area  
25 variances, but more importantly, legally off

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 the mark in this proceeding. And the reason  
3 for that is as the Board knows, the way that  
4 you get to a Zoning Board is not really by  
5 simply coming to the Zoning Board. You come  
6 first to the person in charge with the  
7 enforcement of the local zoning code, that  
8 being the building inspector, who then makes  
9 a determination, and that official  
10 determination, he or she determines that you  
11 need a variance -- an area variance, then you  
12 come to the Zoning Board. And if someone  
13 wishes to challenge that determination,  
14 that's a whole separate thing. We're not

15 RT030917-1847 (1)  
16 challenging it, we agree, as we were told,  
17 that we need a variance, so we came here for  
the variance.

18 As to the comment that the  
19 letter dimensions are not provided, really it  
20 is a reddest of the red herrings. Well,  
21 actually a long time ago a zoning chair  
22 corrected me and said, it can't be the  
23 reddest of the red herrings because red  
24 herrings are the heaviest smelling red  
25 herrings, because they used to drag them to

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 put the hounds off the trail. So it is --  
3 but it is certainly a very pungent red  
4 herring, and the reason for that is that the  
5 rectangular dimensions are provided to you  
6 for all of the signs, and the letters are all  
7 within those dimensions, and I think it would  
8 be a misreading, and this Board has the  
9 authority to read your zoning codes and  
10 determine what it means. I think it would be  
11 completely within your authority to indicate  
12 that if a dimensional rectangle showed you 12  
13 inches in height, and I'm making up the  
14 dimensions, 12 inches in height with 10 feet  
15 across and you saw 10 letters running across  
16 it, that you could kind of do the math and  
17 you know what the size of those letters are,  
18 you know, within a small fraction. And so

19 RT030917-1847 (1)  
certainly, I think that is something that is  
20 certainly within the Board's purview.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 to. We're going to go back to the Planning

3 Board, hopefully with variances tonight, and

4 we're going to continue to work to make this

5 the best site that we can for the community.

6 But we have been at it for a while. It would

7 be impossible for anyone to argue that the

8 site looks anything other than delapidated

9 and sad in its present state. That

10 ultimately, if we're able to produce a new

11 facility at that location, that it will

12 provide employment opportunities. It will

13 supply building permit revenues, tax

14 revenues, and most importantly, a safe and

15 convenient location for folks to fuel their

16 bodies and their cars and to get something

17 that is available throughout the day, whether

18 they work shift or regular hours.

19 And so, to me, this is only  
20 one step. We're still going back to the  
21 Planning Board. And as to any member of the  
22 public wants to ask, you know, would we

23 RT030917-1847 (1)  
24 entertain their comments, I always prefer  
25 that they're provided to my office in writing  
because then they're easier for us to deal

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 with and later there is no mistake in  
3 memories by anyone, ourselves included, as to  
4 what was asked of us. But my card is always  
5 available, we're always willing to take  
6 input, even outside of the Board process from  
7 community members. But here, I think we're  
8 here on a very straightforward variance  
9 application. I think it's metaphorious and  
10 I do not think it creates a detriment.

11 And the last point I wanted  
12 to make is, there was along the way a comment  
13 that the Applicant, we have not demonstrated  
14 to the Board that we have an economic  
15 hardship and that we had sustained our  
16 burden, but what I will tell you, and you  
17 don't have to take my word because you have  
18 your own counsel, economic hardship and  
19 burden are not the standard for area  
20 variances. They have not been the standard  
21 for many, many, many years. we have the  
22 balancing test. It's one that has been tried  
23 and proved, and this Board applied it  
24 numerous times so I don't need to go on and  
25 on. I ask that you vote on this and you

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 approve our variances and we will return to  
3 the Planning Board receptive to make final  
4 and positive changes to the site. Thank you.

5 CHAIRMAN GIAMETTA: Thank  
6 you. Counsel Blass, anything to comment or  
7 add?

8 MR. BLASS: I think the next  
9 order of business is to close the public  
10 hearing, which would -- it's up to you, and  
11 you should take a resolution on that.

12 CHAIRMAN GIAMETTA: okay.

13 Anything further from the public?

14 (No response)

15 CHAIRMAN GIAMETTA: Having  
16 heard none, I ask for a motion to close.

17 MR. MEKEEL: I'm going to  
18 make a motion to close the public hearing.

19 CHAIRMAN GIAMETTA: And a  
20 second?

21 MR. ZAMBITO: I will second.

22 CHAIRMAN GIAMETTA: And a  
23 vote?

24 MR. CONN: Aye.

25 MR. ZAMBITO: Aye.

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 MR. MEKEEL: Aye.

3 MR. SALINOVICH: Aye.

4 CHAIRMAN GIAMETTA: Aye. The  
5 public hearing part of the meeting is  
6 closed. Counsel Blass, anything further?

7 MR. BLASS: So the board has  
8 in front of it a proposed resolution for  
9 consideration and discussion, if you wish,  
10 with respect to the variances requested. I  
11 would like to ask the Applicant a couple of  
12 questions to clarify something for me and  
13 more importantly for purposes of the  
14 resolution.

15 So by submission of March 1,  
16 which included the variance photographs,  
17 there is a grid showing the total quantity of  
18 signs at 15 and the total square footage of  
19 the signs at 225.3. I want to direct the  
20 Applicant's attention to the rule that says  
21 Dunkin Donuts directional signs six in  
22 number. I'm not quite sure what the Dunkin  
23 Donuts directional signs are, and it would be  
24 good to clarify that for the record.

25 MR. KRAUT: Certainly, I can

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 identify those orally, or we can submit a  
3 supplement to you, whatever is more  
4 convenient.

5 MR. BLASS: Well, I think we  
6 should do it now.

7 MR. KRAUT: Fine. With that,  
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8 I'd ask Scott to just step forward and bring  
9 that over to counsel's table and show it to  
10 him.

11 MR. BLASS: Well, you don't  
12 need to do that. You just need to tell me  
13 the purpose of the messages on the signs.  
14 There has been some discussion about,  
15 welcome back, et cetera, and is that what  
16 we're talking about?

17 MR. PARKER: That is correct.  
18 The signs either say enter and exit or  
19 welcome back and see you soon.

20 MR. KRAUT: For reference,  
21 they appear on site signage details to  
22 Morris Associates Engineering survey drawing  
23 dated 12/1/16. Is there an update?

24 MR. BLASS: The question that  
25 arises is how many of those six signs, if

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 any, are -- serve the function of regulating  
3 traffic flow and providing directions for  
4 traffic?

5 MR. KRAUT: In my estimation,  
6 running down them, the two exit signs, yes.  
7 The two enter signs, yes. The do not enter  
8 sign, yes, there are --

9 MR. BLASS: That's five.

10 MR. KRAUT: Hold on. So A  
11 is, do not enter, two are arrow signs that  
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12 do carry the Dunkin Donuts logo on them.  
13 They're directional, they are way finding in  
14 nature. I think the question is, could  
15 probably be answered that all of the  
16 directional signs provide way finding  
17 direction, all the six.

18 MR. BLASS: So the reason I'm  
19 bringing this up, the draft determination  
20 for your consideration as written identifies  
21 those six signs as exempt from the sign law  
22 and thereby reducing the total number of  
23 signs, because they are devoted to the  
24 function of regulating traffic flow and do  
25 not fall within the sign regulations as a

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 consequence.

3 So if you go with the fact  
4 that all of these signs are traffic  
5 directional, and regulate traffic flow, then  
6 the total quantity of signs that require  
7 variance drops from 15 to 9 and the square  
8 footage drops accordingly from both -- drops  
9 accordingly by the size of those particular  
10 signs.

11 So, the gist of the draft  
12 decision is, one, which recognizes the  
13 application as one to allow 8 additional  
14 signs, that is one allowed and 8 more for a  
15 total of 9. And with respect to the square  
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16                   footage being -- the total square footage is  
17                   recognized as 246.45 square feet, above the  
18                   32 square-foot sign allowed on 155-28(C). So  
19                   that is the housekeeping matter that I think  
20                   you should consider relative to the draft  
21                   decision.

22                   The draft decision basically  
23                   draws the following conclusions: That the  
24                   Applicant has provided ZBA with a significant  
25                   demonstration of the commercial signage

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1                   PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2                   located elsewhere in the Town of Marlborough  
3                   and predominantly along New York State Route  
4                   9W. The community character of commercial  
5                   uses along Route 9W is amply demonstrated by  
6                   these submissions. One sign of no more than  
7                   32 square feet is not the rule of practice,  
8                   particularly in the HD zone along Route 9W.  
9                   There is much to be said for the following of  
10                   precedent. The nature of existing commercial  
11                   signage in the town which arose during the  
12                   existence of inconsistent Section 155-28(C),  
13                   for whatever reasons, is highly relevant and  
14                   persuasive in the judgment of the ZBA. So  
15                   consequently, the ZBA concludes that the  
16                   proposed signage plan of February 1, 2017 for  
17                   the Project will not yield an undesirable  
18                   change in the character of the neighborhood  
19                   or a detriment to nearby properties which

20 front along the state highway within the HD  
21 zoning district of the Town.

22 Next, the Zoning Board  
23 concludes that the commercial message benefit  
24 pursued by the Applicant should not be  
25 achieved by other lesser means given the

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 existing community character along Route 9W  
3 within the HD zone with respect to commercial  
4 signage. Signage in place is relevant to the  
5 balancing exercise of the Zoning Board of  
6 Appeals. Ignoring signage in place would be  
7 unfair to the Applicant. Changing the  
8 evident custom and practice is more  
9 appropriately the subject of legislative  
10 action by the Town Board, and there is an  
11 observation that Section 155-28 is in need of  
12 modification.

13 The Zoning Board of Appeals  
14 also concludes that the requested area  
15 variance for signage is substantial in  
16 relation to Section 155-28, but that it is  
17 not relatively substantial in relation to the  
18 existing community character along Route 9W  
19 with respect to commercial signage. The  
20 proposed signage is not out of character to  
21 uses and site development, proposed by the  
22 project which, in turn, are invited by the HD  
23 zoning district regulations. The proposed  
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signage is customary in the town for such uses and site development.

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2 So for reasons noted above,  
3 particularly, the character and zoning of  
4 Route 9W, at this location, the proposed  
5 signage variance will not have an adverse  
6 impact on physical and environment aspects of  
7 the neighborhood. As lead agency under  
8 SEQRA, the Planning Board has so concluded in  
9 its Second Amended Negative Declaration of  
10 February 21, 2017.

virtually all needs for area variances for commercial projects is self-created and the Zoning Board of Appeals finds that this factor to be unimportant, particularly because the Applicant is pursuing a land use, which is invited by the town by applicable land use regulations, as well as by custom and practice with respect to signage. On balance, the Zoning Board of Appeals weighs the circumstances to conclude that the benefit to the Applicant outweighs any detriment to the public health, safety, and welfare.

24 The Zoning Board of Appeals  
25 also concludes that all of the above criteria

1           PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2           apply equally, and in the same way, to the  
3           requested variance from 155-16(G)(3)(b). The  
4           ZBA is bound to follow precedent by case law  
5           in the state, citing the court of appeals  
6           case Knight versus Amelkin. In its earlier  
7           decision of March 10, 2016, the ZBA has  
8           already concluded that the site development  
9           east of the street wall of the proposed  
10           building is appropriate material for an area  
11           variance. This also applies to the proposed  
12           monument sign.

13           The determination also goes  
14           on to make note of a fact that this Board has  
15           received a recommendation from the Ulster  
16           County Planning Board on Rule 239M of the  
17           General Municipal Law, which recommends  
18           disapproval of the variance applications. It  
19           goes on to say, The Zoning Board of Appeals  
20           has been advised that the Ulster County  
21           Planning Board does not enjoy the  
22           jurisdiction to approve or disapprove local  
23           land use decisions. The Ulster County  
24           Planning Board recommended that the Zoning  
25           Board of Appeals receive and review a

1           PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2           breakdown of the signage proposed, and that  
3           it quantify the degree of the variances.

4 RT030917-1847 (1)  
5 That type of material is before the Zoning  
6 Board of Appeals as noted elsewhere in the  
7 proposed determination. The substantiality  
8 of the variance requests has also been  
9 addressed by the Applicant. The Ulster  
10 County Planning Board recommended that the  
11 Zoning Board of Appeals apply a standard that  
12 the sign variance should be disapproved if  
13 the benefit of commercial messaging could not  
14 be achieved through the use of conforming  
15 signage. The Zoning Board of Appeals has  
16 been advised that this is not one of the  
17 legal standards applicable to the balancing  
18 test to be applied for the issuance of the  
19 area variance. The Board has stated its  
20 analysis of applicable variance standards as  
21 we have already been through them. In the  
22 event of a super-majority vote on this  
23 resolution, this paragraph shall form the  
24 basis for the Zoning Board of Appeals  
25 non-acceptance of the Ulster County Planning  
Board's recommendations.

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2 That pretty much summarizes  
3 the proposed determination, which is strictly  
4 up to you.  
5 CHAIRMAN GIAMETTA: Thank you  
6 very much. Do we have any more concerns or  
7 questions?

RT030917-1847 (1)

MR. MEKEEL: I do not.

MR. SALINOVICH: No.

10 CHAIRMAN GIAMETTA: Anything  
11 else at all?

MR. ZAMBITO: No.

MR. CONN: No.

CHAIRMAN GIAMETTA: Okay.

15 Mr. Corcoran, Inspector, anything to  
16 contribute at this point?

MR. CORCORAN: No.

18 CHAIRMAN GIAMETTA: Thank  
19 you. Counsel, we have options on this to  
20 either vote on it or defer vote; is that  
21 correct?

22 MR. BLASS: Sure, totally up  
23 to you.

24 CHAIRMAN GIAMETTA: Panel,  
25 I'd like to hear if we want to defer a vote

1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR  
2 or take a vote on this matter. Would you  
3 input your thoughts that you have.

4 MR. MEKEEL: I am ready to  
5 make a vote.

6 CHAIRMAN GIAMETTA: Mr.  
7 Zambito?

8 MR. ZAMBITO: Yes.

9 CHAIRMAN GIAMETTA: Mr. Conn.

10 MR. CONN: Yes.

11 CHAIRMAN GIAMETTA: And

12 RT030917-1847 (1)  
13 myself. And a motion to approve the  
14 determination as presented by Counsel Blass  
15 is what's needed at this point, somebody  
make that motion.

16 MR. CONN: I will make a  
17 motion.

18 MR. MEKEEL: I will second  
19 that motion.

20 CHAIRMAN GIAMETTA: For  
21 approval.

22 MR. MEKEEL: For approval of  
23 the determination, correct.

24 CHAIRMAN GIAMETTA: And a  
25 vote?

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 MR. CONN: Aye.

3 MR. ZAMBITO: Aye.

4 MR. MEKEEL: Aye.

5 CHAIRMAN GIAMETTA: And aye  
6 from the chair.

7 MR. SALINOVICH: I'm recused.

8 CHAIRMAN GIAMETTA: Mr.  
9 Salinovich is recused. Thank you very much.

10 MR. KRAUT: Thank you all for  
11 your time tonight.

12 CHAIRMAN GIAMETTA: You're  
13 welcome.

14

15 oOo

16 RT030917-1847 (1)

17 (Time noted: 8:25 p.m.)

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STATE OF NEW YORK : COUNTY OF ULSTER

TOWN OF MARLBOROUGH ZONING BOARD

-----X

In the Matter of

LUVERA

-----X

WORKSHOP FOR SIGN VARIANCE

Date: March 9, 2017

Time: 8:25 p.m.

Place: Town of Marlborough

Town Hall

#21 Milton Turnpike

Milton, New York 12547

BOARD MEMBERS: WILLIAM GIAMETTA, CHAIRMAN

JEFF MEKEEL

DAVE ZAMBITO

LENNY CONN

GEORGE SALINOVICH

RONALD C. BLASS, JR., ESQ.

THOMAS CORCORAN, JR. BUILDING INSPECTOR/CODE  
ENFORCEMENT

PENNY E. CASHMAN, ZONING BOARD SECRETARY

-----X

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1                   LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE

2                   CHAIRMAN GIAMETTA: There is  
3                   a second matter apart from the first one, a  
4                   workshop discussion, I believe. Mr. Luvera,  
5                   would you come forward, please. Good  
6                   evening, would you just give us a brief  
7                   description of your request?

8                   MR. LUVERA: I just want to  
9                   add one sign to my property of existing  
10                  signs that are already there.

11                  CHAIRMAN GIAMETTA: That  
12                  application is in our package, Ms. Cashman?

13                  MS. CASHMAN: Yes.

14                  CHAIRMAN GIAMETTA: Mr.  
15                  Luvera, is this the rendering of your  
16                  proposal?

17                  MR. LUVERA: No.

18                  CHAIRMAN GIAMETTA: It's not?

19                  MR. MEKEEL: That is an  
20                  existing sign that is there.

21                  CHAIRMAN GIAMETTA: Okay.

22                  MR. CONN: He has a sign on  
23                  the building. He is asking for variance to

24 R1050917-1847 (1)  
25 put another sign out by the road and the  
other businesses, other four businesses on

3

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 the property. He doesn't have one out by  
3 the road.

4 CHAIRMAN GIAMETTA: okay.

5 MR. CONN: So he's asking to  
6 add an additional one.

7 CHAIRMAN GIAMETTA: Out  
8 there. what size?

9 MR. LUVERA: Whatever size  
10 you guys are going to allow me. I was  
11 thinking a 4 by 8 sign with two pillars  
12 holding it up, something like that. We just  
13 kind of drew a rough sketch without going  
14 nuts just to see what you guys thought.

15 CHAIRMAN GIAMETTA: Mr.  
16 Corcoran, is there any concern about  
17 setbacks from the road edge on that?

18 MR. CORCORAN: As long as he  
19 is outside of the right of way. He is  
20 currently in front of the Planning Board  
21 also, so this is a Planning Board referral,  
22 basically to the Zoning Board of Appeals.  
23 That property currently exceeds 32 square  
24 feet allowed by code. He falls into the  
25 grandfathering of the other signs as per the

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 other ones along the 9W corridor. But since  
3 the additional 4 by 8 sign is requested, the  
4 Planning Board suggests to the Zoning Board  
5 of Appeals for the variances for the  
6 additional one sign, because he is in excess  
7 at this point. But that has been accepted  
8 by the Town as a grandfathered situation.  
9 But the additional, the new sign is in front  
10 of you for approval. So going back in front  
11 of the Planning Board for public hearing on  
12 complete site plan project.

13 CHAIRMAN GIAMETTA: okay.  
14 The dimensions would have to be certain on  
15 our consideration at public hearing;  
16 correct?

17 MR. CORCORAN: Correct. This  
18 is a 4 by 8, two-sided sign, I believe, last  
19 I spoke with the Applicant.

20 MR. MEKEEL: That is exactly  
21 what it is.

22 MR. CORCORAN: The Applicant  
23 does have access to 250 square feet, so he  
24 has over 500, which did allow him two 32  
25 square-foot signs. but again, property at

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 this point is in excess because of the  
3 multiple business under the grandfathering  
4 role, and I will say it again, with current  
Page 70

5 town acceptance of what's there, but, again,  
6 moving forward with a new sign under the  
7 current law requiring to sit in front of you  
8 and request an application for variance for  
9 the additional sign.

10 CHAIRMAN GIAMETTA: Any  
11 questions for the Applicant?

12 MR. CONN: No.

13 MR. MEKEEL: No.

14 MR. ZAMBITO: No.

15 MR. SALINOVICH: No.

16 CHAIRMAN GIAMETTA: The next  
17 logical step would be to prepare a notice  
18 for a public hearing. And he is going to go  
19 before the Planning Board you say?

20 MR. CORCORAN: He currently  
21 is in front of the Planning Board. This  
22 will be a condition of the final for the  
23 zoning Board of Appeals variance for an  
24 additional sign. If accepted, they will be  
25 able to accept that within their site plan

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 application. If rejected, he will be forced  
3 to pull from the site plan application.

4 CHAIRMAN GIAMETTA: A  
5 question?

6 MS. FLYNN: He does have a  
7 public hearing in front of the Planning  
8 Board on March the 20th. I'm not sure, did  
Page 71

9 you mail your mailers out already for that?

10 MR. LUVERA: I didn't know  
11 that I had to do that. For my public  
12 hearing? For you guys?

13 MS. FLYNN: Yes.

14 MR. LUVERA: Yes, that's all  
15 done.

16 MS. FLYNN: okay.

17 CHAIRMAN GIAMETTA: Can that  
18 be finalized without our input formally?  
19 But would they need --

20 MR. CORCORAN: The variances  
21 would come first. The public hearing, I  
22 believe they can still hear it, but they  
23 would close -- the public hearing would  
24 still be heard, and again, the acceptance or  
25 denial by the Planning Board would able him

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 to continue to file approvals after public  
3 hearing is heard. That would be my --

4 CHAIRMAN GIAMETTA: Is that  
5 correct, Mr. Blass?

6 MR. BLASS: Yeah, I think we  
7 can hold the public hearing and maybe even  
8 close the public hearing withholding the  
9 Planning Board's decision until this Board  
10 determines the variance, and then the  
11 Planning Board would render its decision.

12 CHAIRMAN GIAMETTA: I see.  
Page 72

13                   Absent a meeting?

14                   MR. BLASS: You maybe want to  
15                   schedule a public hearing, probably for your  
16                   next meeting in April.

17                   CHAIRMAN GIAMETTA: No, I  
18                   mean, the Planning Board could do a final  
19                   decision without a meeting?

20                   MR. BLASS: Probably they  
21                   would do the public hearing on March 20th.  
22                   They may or may not close the public  
23                   hearing, adjourn the matter until the  
24                   meeting following your April meeting.

25                   CHAIRMAN GIAMETTA: Okay.

1                   1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE

2                   2                   MR. BLASS: And then -- so it  
3                   3                   would be in a position to vote.

4                   4                   CHAIRMAN GIAMETTA: Ms.  
5                   5                   Cashman, when is our next meeting?

6                   6                   MS. CASHMAN: April 13th.

7                   7                   CHAIRMAN GIAMETTA: April  
8                   8                   13th, okay. So then you should go ahead and  
9                   9                   advertise a legal notice.

10                  10                  MR. LUVERA: I need to have a  
11                  11                  public hearing on that? You guys just can't  
12                  12                  give me approval and say go ahead?

13                  13                  CHAIRMAN GIAMETTA: No,  
14                  14                  unfortunately not. A motion is needed for  
15                  15                  him to go to the public --

16                  16                  MR. MEKEEL: I will make a  
                        Page 73

17 motion to go to a public hearing.

18 MR. ZAMBITO: I will second  
19 it.

20 CHAIRMAN GIAMETTA: And a  
21 vote?

22 MR. CONN: Aye.

23 MR. ZAMBITO: Aye.

24 MR. MEKEEL: Aye.

25 MR. SALINOVICH: Aye.

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE

2 CHAIRMAN GIAMETTA: Aye.

3 MR. LUVERA: Thank you. So I  
4 have to mail out letters and do all that?

5 CHAIRMAN GIAMETTA: Yes,  
6 similar to the previous applicant?

7 MR. ZAMBITO: Unfortunately,  
8 yes.

9 MR. LUVERA: So the same  
10 thing I had to do for the Planning Board?

11 CHAIRMAN GIAMETTA: Yes.

12 MR. LUVERA: Wish I had known  
13 that, I could have done it all along.

14 CHAIRMAN GIAMETTA: Ms.  
15 Cashman, Mr. Blass any other business?

16 MS. CASHMAN: No.

17 MR. BLASS: I have nothing.

18 MR. MEKEEL: I make a motion  
19 to close the meeting.

20 MR. ZAMBITO: I'll second it.  
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21 CHAIRMAN GIAMETTA: And a  
22 vote?  
23 MR. CONN: Aye.  
24 MR. ZAMBITO: Aye.  
25 MR. MEKEEL: Aye.

10

1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE  
2 MR. SALINOVICH: Aye.  
3 CHAIRMAN GIAMETTA: Aye.  
4 Thank you very much.

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7 (Time noted: 8:34 p.m.)  
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