

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.

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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

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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
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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

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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?

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

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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

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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 Good evening, Mr. Chairman, members of the
9 board. My name is Jonathan Kraut, I'm
10 partner with the law firm of Harfenist,
11 Kraut & Perlstein. You've had, I believe,
12 before met my associate in connection with
13 this property, Leo Napior. He is covering
14 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

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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

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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

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2 reason we submitted a whole series of
3 photographs, and all one needs to do is take

4 a ride up and down the road to see that what
5 exists out there is virtually almost
6 uniformly noncompliant, in many cases far in
7 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

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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

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

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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

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.

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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

16 not open it to the public to discuss this,
17 so this was not discussed in front of the
18 Planning Board either, most of the material
19 that I'm going to present.

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

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

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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 year, so it's something that you have to be
25 very conscious of in looking at this, but I

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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.

15 Under 155-31-E4J, information
16 is needed on the signs' setbacks, and I think
17 this may only be provided on the monument
18 sign. So if they haven't done that on all of
19 the signs, they need to do that. Under
20 155-28, it talks about the size of the signs,
21 which is one of things they are going for a
22 variance. And also says, shall include only
23 the names of the establishment and letters no
24 higher than five inches. The fact of the
25 matter is, I don't believe any of the

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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,

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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

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

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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

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

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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

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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

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

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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.

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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

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

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2 Board, because you have to think about what
3 it's going to do to the rest of the
4 community.

5 You know, this is an
6 undersized lot to begin with. First they
7 were granted a variance to put something up
8 on a lot that's too small. Now they come in
9 and they want to put up 16 signs when they're
10 allowed 2. This is just going to be a pile
11 of signs that everybody is going to drive by
12 and, to think, that this is going to be an
13 improvement for our town. I submit it's
14 going to be a detriment, and thinking about
15 the welfares of our community, 16 signs that
16 they're asking for is completely
17 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

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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

9 same factors need to be considered by you in
10 this application for these signs.

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

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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.

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

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17 amended by legislation, which would be to
18 amend or change the sign law, which I know is
19 already in discussion, but I don't think that
20 you have the authority to grant a variance as
21 to the number, only as to the dimensional
22 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 signage. I personally went around town and
22 through parts of the Middlehope and parts of
23 Highland to measure signs to give us some
24 kind of guidance as a Town Board. I could
25 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

25 per 250 RT030917-1847 (1) footage. They have a double-sided

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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.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR
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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

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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

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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
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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
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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.

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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 way, 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 --

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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

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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.

6 MR. ZAMBITO: So just now you
7 said they should put in an additional sign?
8 MR. GAROFALO: For here,
9 either extend this one or put another one.
10 You need full coverage.
11 MR. CONN: But you're
12 complaining about the number of signs that
13 they have that aren't in compliance with the
14 current signing law, and you just said they
15 should put another sign.
16 MR. GAROFALO: This is for
17 safety. This is so vehicles over 9 feet
18 aren't going to drive underneath and damage
19 themselves and the building, so for safety.
20 MR. CONN: So the 15 signs
21 that they're asking for a variance for
22 aren't enough? We should actually ask the
23 Applicant to put in another application for
24 a variance for a 16th sign based on your
25 recommendation.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

2 MR. GAROFALO: And get rid of
3 some of the other signs.

4 MR. CONN: Okay.

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

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

10 MR. GAROFALO: Number of
 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

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

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18 north driveway will see the overhead bars
19 that say drive thru. They also will see
20 this sign. These people see nothing, okay.
21 It should be rotated 90 degrees. Yeah,
22 that's a Planning Board issue. I will have
23 to talk it up with them.
24 CHAIRMAN GIAMETTA: Mr.
25 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

RT030917-1847 (1)
22 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?

9 MR. GAROFALO: I did. And
10 they have not allowed public comment on this
11 yet, so I'm hoping that there will be public
12 comment on this on the 20th, and I do intend
13 to be there. I certainly would say that
14 this is a substantial number of signs, more
15 than any of the other locations in the town,
16 and if you look at even their photos, you
17 won't see anybody with 15 signs. I would
18 also note under 155-33B, quote, "Any
19 nonconformity shall not of itself be
20 considered grounds for approval of a
21 variance for any other property."

22 Now, I don't really have a
23 problem with their monument sign, other than
24 I think the size of the lettering on it is
25 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

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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,

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

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

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

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

22 But putting that aside, the
23 most important thing is that that is standard
24 on all of the developed case law, is arguably
25 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 other properties that we can point to that
 8 have signs up that exceeds and is similar to
 9 ours, but most importantly exceed the
 10 ordinance is because, as I think Mike has
 11 pointed out, the ordinance is outdated. It
 12 does not keep up with contemporary signage.
 13 I did not say, and I want the record to be
 14 clear, I did not say that the standard is
 15 because everyone else is doing it, we should
 16 be allowed to do it too. In fact, that would
 17 be more the behavior of an Applicant that
 18 rather than asking you for permission, which
 19 is what we are doing, did it first and then
 20 came back and asked for forgiveness. I'm not
 21 saying that. I'm not saying your standard
 22 is, Hey, everyone else has it. What I'm
 23 saying is when you look at whether or not it
 24 would produce an undesirable change, which is
 25 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 sufficient, and B, anyone who wishes to
12 challenge the legal sufficiency of it can go
13 ahead and do so. But interestingly enough,
14 the one party that can't challenge
15 successfully improper notice, if someone is
16 actually present to address the board,
17 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 challenging it, we agree, as we were told,
16 that we need a variance, so we came here for
17 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

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19 certainly, I think that is something that is
20 certainly within the Board's purview.
21 Lastly, what I will say is
22 this, that it is missing the point completely
23 to not realize that my client has been hard
24 at work working with this Board, and the
25 Planning Board, and we're going to continue

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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

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23 entertain their comments, I always prefer
24 that they're provided to my office in writing
25 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 methaphorious 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

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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

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

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

24 signage is customary in the town for such
25 uses and site development.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

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.

11 Virtually all needs for area
12 variances for commercial projects is self-
13 created and the Zoning Board of Appeals finds
14 that this factor to be unimportant,
15 particularly because the Applicant is
16 pursuing a land use, which is invited by the
17 town by applicable land use regulations, as
18 well as by custom and practice with respect
19 to signage. On balance, the Zoning Board of
20 Appeals weighs the circumstances to conclude
21 that the benefit to the Applicant outweighs
22 any detriment to the public health, safety,
23 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 That type of material is before the Zoning
5 Board of Appeals as noted elsewhere in the
6 proposed determination. The substantiality
7 of the variance requests has also been
8 addressed by the Applicant. The Ulster
9 County Planning Board recommended that the
10 Zoning Board of Appeals apply a standard that
11 the sign variance should be disapproved if
12 the benefit of commercial messaging could not
13 be achieved through the use of conforming
14 signage. The Zoning Board of Appeals has
15 been advised that this is not one of the
16 legal standards applicable to the balancing
17 test to be applied for the issuance of the
18 area variance. The Board has stated its
19 analysis of applicable variance standards as
20 we have already been through them. In the
21 event of a super-majority vote on this
22 resolution, this paragraph shall form the
23 basis for the Zoning Board of Appeals
24 non-acceptance of the Ulster County Planning
25 Board's recommendations.

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1 PUBLIC HEARING - CHESTNUT PETROLEUM DISTRIBUTOR

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?

8 MR. MEKEEL: I do not.
9 MR. SALINOVICH: No.
10 CHAIRMAN GIAMETTA: Anything
11 else at all?
12 MR. ZAMBITO: No.
13 MR. CONN: No.
14 CHAIRMAN GIAMETTA: Okay.
15 Mr. Corcoran, Inspector, anything to
16 contribute at this point?
17 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

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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

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12 myself. And a motion to approve the
13 determination as presented by Counsel Blass
14 is what's needed at this point, somebody
15 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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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.
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(Time noted: 8:25 p.m.)

1

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

2

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

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24 put another sign out by the road and the
25 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

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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
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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

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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

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 be able to

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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.

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.

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1 LUVERA - WORKSHOP DISCUSSION FOR SIGN VARIANCE

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

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

6 MS. CASHMAN: April 13th.

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

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

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

16 MR. MEKEEL: I will make a
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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.

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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.

21 CHAIRMAN GIAMETTA: And a
22 vote?
23 MR. CONN: Aye.
24 MR. ZAMBITO: Aye.
25 MR. MEKEEL: Aye.

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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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