



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

AUGUST 2, 2016

Work Session Began: 6:30 p.m.

Meeting Began: 7:00 p.m.

Place: Community Conference Room, Greece Town Hall

Present

Albert F. Meilutis, Chairman

Robert J. Bilsky

Andrew P. Forsythe

Thomas F. Hartwig

Randy T. Jensen

Cathleen A. Nigro

Bradford Shea

John T. Caterino, Planning Assistant

Maryjo Santoli, Zoning Board Secretary

Absent

Christopher A. Schiano, Esq., Deputy Town Attorney

Additions, Deletions and Continuances to the Agenda

Announcements

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Old Business:

1. Applicant: Gabrielle Riorden
Location: 464 Red Apple Lane
Mon. Co. Tax No.: 059.08-1-54
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed 12-foot-high, closed-construction fence (156.6± linear feet) to be located in the rear yard, where fences in rear yards shall not exceed 6.0 feet in height. Sec. 211-47

Mr. Hartwig offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 464 Red Apple Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

Seconded by Mr. Shea and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Abstain
	Mr. Shea	Yes		

Motion Carried

Mr. Hartwig then offered the following resolution and moved its adoption:

Regarding the application of Gabrielle Riorden for an area variance for a proposed 12.0-foot-high, closed-construction fence (156.6± linear feet) to be located in the rear yard, where fences in rear yards shall not exceed 6.0 feet in height.

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This parcel is located at 464 Red Apple Lane (the "Applicant Property") and is located in an R1-E (Single-Family Residential) Zoning District. The parcel is adjoined by R1-E (Single-Family Residential) zoning to the east and west and RMH (Multiple-Family Residential) zoning to the south.

On June 21, 2016, Gabrielle Riorden (the "Applicant") and Allan Bernhardt appeared before the Board of Zoning Appeals (the "Board") regarding the aforementioned variance request. The Applicant purchased the Applicant Property in October 2015, and is requesting to install the fence on the (south) rear property line, which abuts the Affinity Orchard Place Apartment Complex (the "Affinity Complex"), formerly known as English Village. Currently, there is an existing 6.0-foot-high, closed-construction fence where the proposed 12.0-foot-high, closed-construction fence would be located. The proposed fence would be constructed of wood materials. The Applicant stated that the need for the 12.0-foot-high fence was to provide privacy and security from the Affinity Complex, notably for the following reasons: the Affinity Complex building is three (3) stories tall and includes outdoor balconies; the increase in elevation from the Applicant's property to the Affinity Complex; and the ability for tenants from the Affinity Complex to view into the Applicant's rear yard either from the ground or the second- and third-floor balconies.

At one point, the Applicant did state that they could live with a 10-foot-high fence, but not 8.0 feet high because of the change in elevation and because an 8.0-foot-high fence would not obstruct the view of the rear of their property from the Affinity Complex's second floor. During further discussion, the issue was raised as to what improvement the fence would have on the Applicant's security. On the Applicant's east and west side lot lines, their adjoining neighbors have 4.0-foot-high, chain-link fences. A person could evade the Applicant's proposed fence and still be able to access the Applicant Property via the adjoining properties and by climbing the existing 4.0-foot-high, chain-link fence.

Also at the June 21st meeting, the Board heard testimony from William LaBarge, Maintenance Supervisor for the Affinity Complex. Mr. LaBarge testified that the Affinity Complex was opposed to the proposed 12.0-foot height but would not object to an 8.0-foot-high fence. Furthermore, Mr. LaBarge stated that there was change in elevation from the Affinity Complex to the Applicant Property and that all the neighboring properties have consistent fencing surrounding the Affinity Complex. In terms of the behavior of tenants, Mr. LaBarge did state that there have been issues with items being thrown into neighboring yards, people jumping over fences into neighboring yards, and damage being done to existing fences. However, Mr. LaBarge stated that the management of the Affinity Complex is willing to work in conjunction with the neighboring property owners to alleviate these matters. After further discussion, the Board voted to continue the public hearing to July 5 in order to give time for the Board's staff to visit the Applicant Property and the Affinity Complex property, to take photographs and to view the change in elevation.

On July 5, 2016, the Applicant reappeared before the Board. At the beginning of the public hearing, the Board's staff provided photographs taken from the Applicant Property and the Affinity Complex. The photographs presented showed a tape measure at different heights from atop the existing 6.0-foot-high fence. The Board's staff confirmed that there was a gradual slope down from the Affinity Complex to the Applicant Property. During further discussion at the July 5 meeting, the Applicant reiterated their reasoning for a fence to be taller than 6.0 feet in height for privacy and security reasons, notably items being tossed onto their property, kids playing during the day, people sitting on the balconies, and the Applicant's opinion that the Affinity Complex should be considered a commercial site because it is three (3) stories in height and hires employees. Additionally, following more discussion, the Applicant stated that an 8.0-foot-high fence would not address their concerns, but that they would consider a 10.0-foot-high fence to make the Applicant Property more enjoyable for them. The Applicant also stated that they had planted approximately 26 arborvitae to the

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rear of the Applicant Property, which is in the area where the proposed fence would be placed. During further discussion, members of this Board questioned the impact that a fence taller than 6.0 feet in height would have, notably the difference when comparing to neighboring properties, and that an increased fence height would not prevent people from looking down onto the Applicant Property. The Board voted to continue the public hearing to July 19 in order to give the Applicant time to submit a Freedom of Information Law ("FOIL") request about a variance application in another location, in which the Board approved a 10.0-foot-high fence.

On July 19, 2016, the Applicant reappeared before the Board. At this meeting, the Applicant discussed a Board approval on May 20, 2002 for an 8.0- and 10.0-foot-high, closed-construction fence at 23 Almay Road. In that application, the residential property abutted commercial businesses (automotive repair and plumbing contractor) on Stone Road. Similar to our current application, an elevation change was present; in that case, it was 4.0 feet. However, it should be noted that 23 Almay Road was zoned single-family, and the adjoining property on Stone Road was zoned commercial. In the case of the application currently before this Board, the adjoining property, the Affinity Complex, is zoned multiple-family, not commercial. Section 211-5 of the Town's Zoning Ordinance defines a Residential District as "All of the following zoning classifications of land as defined in this chapter and as delineated on the Official Zoning Map"; included in said classifications is the RMH district, which the Affinity Complex is located within.

The Applicant does not have a unique or special set of circumstances. Their situation is shared by approximately 27 other single-family residential properties which adjoin the Affinity Complex. In the case of the variance for fence height at 23 Almay Road, the subject property was one of only two single-family residential properties that adjoined the automotive repair and plumbing contractor site.

In making its determination, the Board of Zoning Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such determination the Board shall also consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. An undesirable change will be produced in the character of the neighborhood. Since at least 1982, no property which abuts the Affinity Complex has received approvals from this Board to construct/install fencing which is greater than 6.0 feet in height. Also, it can be argued that a fence at 10.0 feet in height would be undesirable because of the fact that existing fences surrounding the Affinity Complex do not exceed 6.0 feet in height. If allowed to exist, this fence would surely stand out when compared to the surrounding area. Furthermore, the Applicant Property is part of a network of existing 6.0-foot-high fences that border the Affinity Complex. The change in fence height at one property—by even 2.0 feet, not to mention 4.0 or 6.0 feet—would cause a noticeable, undesirable change to the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance. The Applicant recently has planted a row of arborvitaes along the rear lot line of the Applicant Property, which is in the area where the proposed fence would be placed. It is not unusual for certain types of arborvitaes to grow to a height of 10.0 feet or more. The arborvitaes would provide the same benefit as a 10.0-foot-high, closed-construction fence.
3. Whether the variance is substantial. The variance overall would be considered substantial, because, as stated previously, no property that abuts the Affinity Complex has a fence in the rear yard which exceeds 6.0 feet in height.

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4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although the proposed fence height would not have a significant adverse environmental impact in the context of the State Environmental Quality Review Act, a physical impact would occur in the neighborhood because of the obvious visual change caused by a fence at 10 or 12 feet—or even 8 feet—in height. As stated previously, no residential property abutting the Affinity Complex has a fence which is greater than 6.0 feet in height, and a fence at the proposed height surely would stand out when compared to the surrounding area.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. The alleged difficulty is self-created. The Applicant stated that she purchased the property in October 2015. The Affinity Complex was constructed in approximately 1974, meaning it has been in its current location for roughly 32 years; it must have been visible to the Applicant before she purchased the Applicant Property. The adjoining residential neighborhoods and subdivisions were not developed until approximately 1979, meaning the Affinity Complex has existed for at least five years longer than the adjoining neighborhoods. Also, I do not feel that the Applicant has presented that this case is a unique circumstance allowing me to grant this variance, because it is a scenario which is shared by other properties adjoining the Affinity Complex.

Based on the foregoing information and findings, I move to deny this application.

Seconded by Mr. Shea and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Abstain
	Mr. Shea	Yes		

Motion Carried
Application Denied

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2. Applicant: Majed Shaibi
Location: 14 Ballad Avenue
Mon. Co. Tax No.: 074.06-1-1
Zoning District: R1-E (Single-Family Residential)
Request: a) A public hearing for the Board of Zoning Appeals to consider whether or not a successive application, brought forth within a one (1)-year period, is the same or substantially the same as the application denied by the Board of Zoning Appeals on June 7, 2016. Sec. 211-62 A
b) An area variance for a proposed 6.0-foot-high, closed-construction fence (97± linear feet) to be located in a front yard, where fences in front yards shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L

Mr. Jensen offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 14 Ballad Avenue, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

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Mr. Jensen then offered the following resolution and moved its adoption:

Regarding the application of Majed Shaibi of 14 Ballad Avenue. Mr. Shaibi appeared before the Board of Zoning Appeals on July 19, 2016 for the following request : A public hearing for the Board of Zoning Appeals to consider whether or not a successive application, brought forth within a one (1)-year period, is the same or substantially the same as the application denied by the Board of Zoning Appeals on June 7, 2016; and an area variance for a proposed 6.0-foot-high, closed-construction fence (97± linear feet) to be located in a front yard, where fences in front yard shall not exceed 4.0 feet in height and shall be of open construction.

Before I proceed with the Findings of Fact, I would like to take the opportunity to provide a brief synopsis as it relates to Item "a" on the agenda this evening. On June 7, 2016, this Board denied an area variance request for a proposed 6.0-foot-high, closed-construction fence (129± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet and shall be of open construction. Initially, the proposed fence would have a setback of 4.0 feet from a public sidewalk on the Maiden Lane side of the parcel. After discussion, comments were received from the Town's Department of Public Works and Traffic Advisory Committee. It was determined that a four-foot setback was not adequate enough and that eight feet would be more appropriate. Also, the Board was in receipt of written and photographic testimony from the neighbor directly east of Mr. Shaibi's parcel, at 2041 Maiden Lane. In their testimony, it was stated that they did not object to a fence in this area of the parcel, but would request at least 12.0 to 16.0 feet setback from the sidewalk, along with concerns they had with the fence being too close to the sidewalk. Mr. Shaibi agreed to locate the fence at least 8.0 feet from the sidewalk, but no more, which this Board believed was not adequate enough. As a result, the Board denied Mr. Shaibi's request.

The Findings of Fact are as follows. On July 19, 2016, the applicant, Majed Shaibi, and his attorney, Joseph DeMaria, appeared before this Board for a 6.0-foot-high, closed-construction fence to be located in the front yard area. Unlike the original application, the proposed fence location would have a setback of 20.0 feet from the sidewalk on the Maiden Lane side, as opposed to the previous 4.0 to 8.0 feet. In essence, the 20.0-foot setback is five (5) times greater than the initial setback of 4.0 feet and more than double the 8.0 feet which this Board denied. After discussion, it was determined by this Board that this new application is not the same or substantially the same as the application that was denied on June 7, 2016, and a public hearing was opened for the consideration of Item "b." As stated previously, the applicant's new proposal is for 97± linear feet of 6.0-foot-high, closed-construction fence to be located in the front yard area of a corner lot, and will be located at least 20.0 feet from the sidewalk. The proposed fence would be made of vinyl materials and initially was going to be a "beechwood brown" color. Following further discussion, it was decided by the Board to allow the color of the fence to be similar to the existing fence in the applicant's rear yard, that being white vinyl, instead of multi-color fencing. The fence would be located at least 20.0 feet from the sidewalk on the Maiden Lane side of the parcel. The purpose of the fence is to provide safety and security for the applicant's five (5) children, ranging from 2 to 15 years in age.

Also present at the meeting were Joseph and Janice Silano of 2038 Maiden Lane and Jeanet Limoli of 31 Ballad Avenue, who voiced their concerns regarding this application, notably the presence of a 6.0-foot-high, closed-construction fence in the front yard area of the applicant's parcel. Furthermore, Mr. and Mrs. Silano voiced their concerns of the impact the fence would have on the property directly to the east of the applicant, 2041 Maiden Lane. The applicant submitted into the record written testimony obtained through a Freedom of Information Law ("FOIL") request of written testimony provided by the residents of 2041 Maiden Lane. The testimony submitted to the Board was date-stamped May 17, 2016 and was a copy of the testimony related to the application this Board denied on June 7. In the

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testimony, it was stated that they were "not 100% against the owners putting up this fence," but they just had some concerns to be taken into consideration. Furthermore, they "would feel a lot more comfortable with the fence coming back at least 12 to 16 feet from the sidewalk." As a result, the Board voted to close the public hearing and render a decision on this application this evening, August 2nd.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQRA, requiring no further action by this Board, I move to approve this application with the following conditions:

1. This fence is to be no closer than 20.0 feet from the sidewalk on the Maiden Lane side of the parcel.
2. This approval is for the life of the fence.
3. The applicant shall sign a hold harmless agreement with the Town of Greece.
4. Also, the fence shall not break the front plane of the house on Ballard Avenue side, per the submitted map before us.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

**Motion Carried
Application Approved
With Conditions**

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3. Applicant: Christina Tanski
Location: 429 Woodsong Lane
Mon. Co Tax No.: 046.02-3-67
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed 6.0-foot-high, closed-construction fence (92± linear feet) to be located in a front yard, where fences in front yards shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L
b) An area variance for a proposed 6.0-foot-high, closed-construction fence (30± linear feet) to be located in the clear visibility portion of a lot, where fences in the clear visibility portion of a lot shall not exceed 3.0 feet in height and shall be of open construction. Sec. 211-46 D

On a motion by Mr. Shea and seconded by Mr. Bilsky, it was resolved to continue the public hearing on this application until the meeting of August 16, 2016 in order to give staff time to hear back from DPW with their comments.

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

**Motion Carried
Application Continued Until
Meeting of August 16, 2016**

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4. Applicant: Indus Real Estate II, Inc.
Location: 1271 Long Pond Road & 2585 West Ridge Road
Mon. Co. Tax No.: 074.14-3-10 & 074.14-3-13
Zoning District: BR (Restricted Business)
Request: a) An area variance for a proposed freestanding sign to have a sign area of 164.8 square feet (10.3 feet x 16.0 feet, including decorative support area), instead of the 40.0 square feet maximum permitted. Sec 211-52 B (1) (d), Table VI
b) An area variance for a proposed freestanding sign to have a setback of 5.0 feet (measured from the south right-of-way line of West Ridge Road), instead of the 15.0 feet minimum required. Sec. 211-52 B (1) (b) [1]
c) An area variance for a proposed freestanding sign to have a height of 25.0 feet, instead of the 20.0 feet maximum permitted. Sec. 211-52 B (1) (c)
d) An area variance for a proposed second freestanding sign with a sign area of 164.8 square feet (10.3 feet x 16.0 feet, including decorative support area) for a business center, instead of the one (1) 40.0-square-foot freestanding sign permitted. Sec. 211-11-52 B (1) (a) [2], Sec. 211-52 B (1) (d), Table I
e) An area variance for a proposed second freestanding sign to have a height of 25.0 feet, instead of the 20.0 feet maximum permitted. Sec. 211-52 B (1) (c)
f) An area variance for 59 proposed parking spaces in a business center, instead of the minimum 83 parking spaces required. Sec. 211-45 S (1)

On a motion by Mr. Bilsky and seconded by Ms. Nigro, it was resolved to close the public hearing on this application and reserve decision until the meeting of August 16, 2016.

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

**Motion Carried
Application Closed and Decision Reserved
Until the Meeting of August 16, 2016**

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New Business:

1. Applicant: Michelle Heintz
Location: 276 Alfonso Drive
Mon. Co. Tax No.: 074.11-1-18
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed 6.0-foot-high, closed-construction fence (137± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L
b) An area variance for a proposed 6.0-foot-high, closed-construction fence (25± linear feet) to be located on a corner lot in the portion of the rear yard which adjoins the front yard of an adjoining lot, where fences shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-47 A (1)

Mr. Shea offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 276 Alfonso Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

Seconded by Mr. Bilsky and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

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Mr. Shea then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Michelle Heintz, 276 Alfonso Drive, Ms. Heintz appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed 6.0-foot-high, closed-construction fence (137± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction; and an area variance for a proposed 6.0-foot-high, closed-construction fence (25± linear feet) to be located on a corner lot in the portion of the rear yard which adjoins the front yard of an adjoining lot, where fences shall not exceed 4.0 feet in height and shall be of open construction.

The findings of fact are as follows. Ms. Heintz, who has lived at 276 Alfonso Drive for two years, appeared before the Board this evening. This property is located in an R1-E (Single-Family Residential) zone. The reasons presented by Ms. Heintz for the proposed fencing is to increase her safety and privacy for her home and her family in the back yard. The new fencing will be of closed, vinyl construction; it will have a minimum of 4 feet from the sidewalk. She has agreed to sign a Hold Harmless agreement whereby the Town is not held responsible for any possible damage to the fence as a result of snow plowing the sidewalk. No one appeared before the Board to speak either in favor or against this application.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. That the applicant shall obtain all necessary Town permits.
2. That the setback from the sidewalk from the proposed fencing will be a minimum of 4 feet.
3. The owner will sign a Hold Harmless agreement with the Town against any damages to the fence during snow plowing season.
4. And the approval is for the life of the fence.

Seconded by Mr. Bilsky and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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2. Applicant: Matthew Smith
Location: 100 Dove Tree Lane
Mon. Co. Tax No.: 058.03-4-42
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed 6.0-foot-high, closed-construction fence (78± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L
b) An area variance for an existing shed (10.2 feet x 10.2 feet; 104 square feet) located in the side yard of a corner lot, where accessory structures, such as sheds, are permitted only in rear yards. Sec. 211-11 E (3), Sec. 211 A, Figure IV

Ms. Nigro offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 100 Dove Tree Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Ms. Nigro then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Matthew Smith, 100 Dove Tree Lane, Matthew Smith and Lynnora Sable-Smith appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed 6.0-foot-high, closed-construction fence (78± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet in height and shall be of open construction; and an area variance for an existing shed (10.2 feet x 10.2 feet; 104 square feet) located in the side yard of a corner lot, where accessory structures, such as sheds, are permitted only in rear yards.

The findings of fact are as follows. This parcel is located on a corner lot at 100 Dove Tree Lane and Images Way in an R1-E (Single-Family Residential) district. It is approximately 152 feet x 115 feet square lot. Ms. Sable-Smith states that they have lived in the home for 14 years. They are looking to install a closed-construction fence to maintain privacy and security and the welfare for themselves, as well as the family dog, who is currently chained, and the fence would provide safety for that dog for the traffic that goes by. The proposed fence will be made out of white vinyl and will mirror the neighbor's fence; it will butt right up to their fence and be the same height and color. They took into account the placement of this fence for snow removal by the Town. There was a letter submitted from a neighbor at 80 Dove Tree Lane that gave them permission to butt their fence up to theirs. And item "b," the existing shed, was there when they moved in and it is used to provide extra storage for lawn furniture, lawnmower, and bikes; there is a light in it and one electric outlet. This is a corner lot, which does not allow for suitable placement within code to avoid a variance for this shed. The neighbor submitted a letter of approval.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. That the applicant will obtain required permits.
2. And this approval will be for the life of both the shed and the fence.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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August 2, 2016

3. Applicant: Renee O'Keefe
Location: 2973 Edgemere Drive
Mon. Co. Tax No.: 026.10-1-21
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a front setback of 106.5± feet (measured from the north right-of-way line of Edgemere Drive), instead of the 105± feet maximum established by the neighborhood average. Sec. 211-11 D (2), Table I, Sec. 211-11 D (1) (b)
 - b) An area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a (west) side setback of 3.47 feet, instead of the 6.0 feet minimum required. Sec. 211-11 D (2), Table I
 - c) An area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a (east) side setback of 5.12 feet, instead of the 6.0 feet minimum required. Sec. 211-11 D (2), Table I
 - d) An area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a rear setback of 62.27 feet (measured from the centerline of Edgemere Drive), instead of the 101 feet minimum required. Sec. 211-11 D (2), Table I
 - e) An area variance for a proposed second-story deck (6.0 feet x 12.0 feet; 72.0 feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted only in rear yards. Sec. 211-11 E (3)
 - f) An area variance for a proposed lot coverage of 32%, instead of the 26.5% granted by the Board of Zoning Appeals on November 11, 1999. Sec. 211-11 D (2), Table I

Mr. Hartwig offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 2973 Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(9), (10), (12) & (13).)

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2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

Seconded by Mr. Bilsky and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Mr. Hartwig then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Renee O'Keefe, 2973 Edgemere Drive, in an R1-E (Single-Family Residential) district, Mr. Lawrence Fenity, their representative, appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a front setback of 106.5± feet (measured from the north right-of-way line of Edgemere Drive), instead of the 105± feet maximum established by the neighborhood average; an area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a (west) side setback of 3.47 feet, instead of the 6.0 feet minimum required; an area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a (east) side setback of 5.12 feet, instead of the 6.0 feet minimum required; an area variance for a proposed principal building (single-family dwelling), following the demolition of the existing single-family dwelling, to have a rear setback of 62.27 feet (measured from the centerline of Edgemere Drive), instead of the 101 feet minimum required; an area variance for a proposed second-story deck (6.0 feet x 12.0 feet; 72.0 feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted only in rear yards; and an area variance for a proposed lot coverage of 32%, instead of the 26.5% granted by the Board of Zoning Appeals on November 11, 1999.

The findings of fact are as follows. Renee O'Keefe purchased the property approximately 17 years ago. It was discussed that the current structure was built approximately 50 years ago in the early 60s and as such current setbacks have been in existence for that time frame. Now plans are to demolish the existing structure, as the O'Keefe family is growing, and the location is ideal for their lifestyle so therefore rather than relocating they will be demolishing and constructing a new house. The setbacks mentioned in "a" (the front setback), "b" (the west setback) and "d" (the rear setback), will be the same as the current structure, and those setbacks have been in existence for over 50 years. As far as the east setback goes, that is primarily resulting from a porch that will be built on the east side of the building and also for access from that porch to the lake. As far as the deck is concerned, variance "e," there will be a second-story deck only, where access will be from

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the master bedroom. There will be no hot tubs placed on the deck and as far as utilities—if there are any utilities—it will be for outside lighting fixtures for the deck. Also, there are no plans for the deck to be covered in the future or to make it an all-seasons room. As far as decks in this area, they are normally placed on the water side of the structure, which would be classified as front yards for these properties. As far as the area variance of 32%, 32% is consistent with other neighborhood properties in the area. In addition, Mr. Fenity suggested that as far as the existing ground floor deck that is currently 18 to 22 inches off ground level, that fill could be rearranged to bring that deck consistently to 17 inches off the ground. They have spoken to the neighbors on both sides and they are in agreement with the project.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. That all building permits are obtained and Town codes satisfied.
2. That the proposed deck that is mentioned in variance “e” will not have a hot tub placed on it.
3. And that the approval for the deck is for the life of the deck only.

Seconded by Mr. Bilsky and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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August 2, 2016

4. Applicant: Leonard Defendorf
Location: 2112 Edgemere Drive
Mon. Co. Tax No.: 026.20-1-33
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed carport (24.0 feet x 32.0 feet; 768.0 square feet) to have a rear setback of 2.5± feet (measured from the outlet of Long Pond), instead of the 25.0 feet minimum required for a waterfront lot. Sec. 211-11 E (1), Table I
b) An area variance for a proposed carport (24.0 feet x 32.0 feet; 768.0 square feet) to have a (west) side setback of 5.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (1), Table I
c) An area variance for an existing deck (11.9 feet x 12.5 feet; 148.8 square feet) located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted only in rear yards. Sec. 211-11 E (3)
d) An area variance for a proposed lot coverage of 27%, instead of the 25% maximum permitted. Sec. 211-11 D (2), Table I

Mr. Jensen offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 2112 Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10) & (12).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQRA requires no further action relative to this proposal.

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Seconded by Ms. Nigro and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Mr. Jensen then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Leonard Defendorf, 2112 Edgemere Drive, Mr. Defendorf appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed carport (24.0 feet x 32.0 feet; 768.0 square feet) to have a rear setback of 2.5± feet (measured from the outlet of Long Pond), instead of the 25.0 feet minimum required for a waterfront lot; an area variance for a proposed carport (24.0 feet x 32.0 feet; 768.0 square feet) to have a (west) side setback of 5.0 feet, instead of the 6.0 feet minimum required; an area variance for an existing deck (11.9 feet x 12.5 feet; 148.8 square feet) located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted only in rear yards; and an area variance for a proposed lot coverage of 27%, instead of the 25% maximum permitted.

The findings of fact are as follows. The applicant has lived at this location for 44 years, and the reason for the carport is the current one needs to be replaced. The applicant will be putting in a wood-type carport. The carport will store his vehicles, lawnmowers and other types of household needs. This will be on a concrete base. The applicant also stated that the deck, which is located in the waterfront of this property, has been there for quite some time and the condition of the deck is in good shape. There will be no utilities in this carport, and carports and garages are common on this stretch of Edgemere Drive, which would be between Wake Drive and the end of Edgemere Drive up to where the bridge crosses over on Edgemere Drive from Old Edgemere to New Edgemere Drive. These parcels are approximately 50 feet wide, and variances have been granted for other properties along this stretch of Edgemere Drive. Decks on waterfront lots are also common in this neighborhood, and this lot coverage, which is larger than permitted, is not greater than what have been granted by this Board in this neighborhood prior to this. Also, the applicant did state that the proposed carport is smaller than what he currently has; it will stay within the same footprint that he has currently and it will be a tad bit smaller.

Having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. The applicant will obtain all necessary permits.
2. The approvals are for the life of the carport, along with the deck.
3. This is subject to approval of the Building Department along with any FEMA requirements.

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Seconded by Ms. Nigro and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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August 2, 2016

5. Applicant: 4320 West Ridge, LLC
Location: 4232-4350 West Ridge Road
Mon. Co. Tax No.: 073.01-1-3, 073.01-1-4, 073.01-1-5, 073.01-1-6, 073.01-1-7,
073.01-1-21, 073.01-2-63, 073.01-2-64.111, 073.01-2-64.12,
073.01-2-68.1 (part)
Zoning District: BG (General Business)
Request: a) A special use permit to operate a motor vehicle service
station. Sec. 211-17 C (3) (b) [2], Sec. 211-35
b) A special use permit to operate a gasoline dispensing station.
Sec. 211-17 C (3) (b) [1], Sec. 211-34
c) An area variance for a proposed gasoline dispensing canopy
to have an area of 5640 square feet, instead of the 1500 square
maximum permitted. Sec. 211-34 C

On a motion by Mr. Bilsky and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of August 16, 2016, per the applicant's request.

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent (Late)
	Mr. Hartwig	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

**Motion Carried
Application Continued Until
Meeting of August 16, 2016**

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ADJOURNMENT: 9.30 p.m.

APPROVAL OF BOARD OF ZONING APPEALS MEETING MINUTES

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

Signed: _____

Date: _____

Albert F. Meilutis, Chairman

NEXT MEETING: August 16, 2016