TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

NOVEMBER 4, 2015

William D. Reilich
Supervisor

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
Andrew P. Forsythe (left meeting at approximately 8:35)
Thomas Hartwig
Cathleen A. Nigro
Bradford Shea

Christopher A. Schiano, Esq., Deputy Town Attorney
John Caterino, Planning Assistant
Maryjo Santoli, Zoning Board Secretary

Absent
Robert J. Bilsky
Randy T. Jensen

Additions, Deletions and Continuances to the Agenda

Announcements

Old Business:

1. Applicant: James Russo

   Location: 700 Edgemere Drive

   Mon. Co. Tax No.: 035.14-1-27

   Zoning District: R1-E (Single-Family Residential)

   Request: a) An area variance for a proposed deck (16.0 feet x 18.3 feet; 292.8 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; and for said deck to have a proposed front setback of 55.0 feet (measured from the north right-of-way line of Edgemere Drive), instead of the 42.2 feet maximum established by the neighborhood average; and for said deck to have a proposed (west) side setback of 0.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (3), Sec.211-11 D (2), Table I, Sec. 211-11 E (1), Table I

   b) An area variance for a proposed second-story deck (10.0 feet x 14.7 feet; 147 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; and for said deck to have a proposed front setback of 49.0 feet (measured from the north right-of-way line of Edgemere Drive), instead of the 42.2 feet maximum established by the neighborhood average; and for said deck to have a proposed (west) side setback of 3.6 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (3), Sec.211-11 D (2), Table I, Sec. 211-11 E (1), Table I

   c) An area variance for an existing principal structure to have a (west) side setback of 0.5 feet, instead of the 6.0 feet minimum required. Sec. 211-11 D (2), Table I, Sec. 211-22 B (1) (a)

   d) An area variance for an existing principal structure to have a rear setback of 30.8 feet (measured from the centerline of Edgemere Drive), instead of the 113.0 feet minimum required. Sec. 211-11 D (2), Table I, Sec. 211-22 B (1) (a)

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 700 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).)

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**	**Absent**	**Mr. Forsythe**	**Yes**
	Mr. Hartwig	**Yes**	**Mr. Jensen**	**Absent**
	Mr. Meilutis	**Yes**	**Ms. Nigro**	**Yes**
	Mr. Shea	**Yes**		

Motion Carried

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

Mr. Chairman, with regard to the application of James Russo, 700 Edgemere Drive, which is located in an R1-E Single-Family district, Mr. Russo appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed deck (16.0 feet x 18.3 feet; 292.8 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; for said deck to have a proposed front setback of 55.0 feet (measured from the north right-of-way line of Edgemere Drive), instead of the 42.2 feet maximum established by the neighborhood average; for said deck to have a proposed (west) side setback of 0.0 feet, instead of the 6.0 feet minimum required; an area variance for a proposed second-story deck (10.0 feet x 14.7 feet; 147 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; for said deck to have a proposed front setback of 49.0 feet (measured from the north right-of-way line of Edgemere Drive), instead of the 42.2 feet maximum established by the neighborhood average; for said deck to have a proposed (west) side setback of 3.6 feet, instead of the 6.0 feet minimum required; an area variance for an existing principal structure to have a (west) side setback of 0.5 feet, instead of the 6.0 feet minimum required; and an area variance for an existing principal structure to have a rear setback of 30.8 feet (measured from the centerline of Edgemere Drive), instead of the 113.0 feet minimum required.

WHEREAS, the findings of facts are as follows. On October 6, James Russo, who resides at 700 Edgemere Drive, as stated, in a R1-E zoning district, appeared before the Board, stating that he purchased the property August 28 of this year. Currently, a 10 feet x 14.7 feet deck exists that Mr. Russo originally intended to replace, using the same dimensions. In addition to this replacement, he also intends to build a second-floor 10 feet x 14.7 feet deck in order to have privacy and to enhance his lifestyle. The second-floor deck will not be covered and will only be accessed from the second floor of the primary structure. Both decks will be constructed of pressure-treated wood and composite materials. No new utilities other than a possible solar application for lighting will be run to these decks, and no hot tubs will be placed or permanent grills will be installed on them.

Decks have traditionally been permitted in front yards of waterfront properties, as that is the side with water exposure. As this lot is 25 feet in width, current setback codes cannot be realized for the placement of these decks, therefore requiring these variances.

Relative to the setbacks for the primary structure, which was constructed in 1920, the existing setbacks have been in place for 95 years, long before current setback codes were established. Consequently, due to the property's width and structure location it is not feasible to satisfy current setback requirements.

At the October 6 meeting, Mr. Russo then stated that he intends to increase the size of just the first-floor deck, where the width will change from 14.7 feet to 18.3 feet, and the length will change from 10 feet to 16 feet; the second-floor deck will remain the originally stated size. In order to advertise this change and to obtain County comments, this application was continued to October 20.

On October 20, it was reported that Monroe County comments were not as yet received; therefore, a continuance was granted to the November 4th meeting. In addition, that evening, Jennifer Russo, who also resides at 700 Edgemere Drive, stated that these plans have been discussed with their neighbors and that there were no concerns.

Tonight, November 4th, it was reported that Monroe County had no comments.

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 building permits must first be obtained and all codes satisfied.
2. And these approvals are only for the life of the primary structure and the stated decks.

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

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

Motion Carried
Application Approved
With Conditions

New Business:

1. Applicant: James Pilkenton

Location: 165 Barcrest Drive

Mon. Co. Tax No.: 060.09-5-16

Zoning District: R1-E (Single-Family Residential)

Request: a) An area variance for an existing principal structure to have a (south) side setback of 6.4 feet, instead of the 7.6 feet granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 D (2), Table I

b) An area variance for an existing deck (1334.8± square feet) to have a (north & west) side setback of 0.0 feet, instead of the 8.0 feet minimum required. Sec. 211-11 E (1), Table I

c) An area variance for existing accessory structures, totaling 1083.4± square feet, instead of the 972.0 square feet granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 E (1), Table I

d) An area variance for proposed lot coverage of 42.8%, instead of the 28% granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 D (2), Table I

On a motion by Mr. Hartwig and seconded by Ms. Nigro, it was resolved to continue the public hearing on this application until the meeting of December 1, 2015 to order to give the applicant time to gather more information that the Board requested, and to review his options.

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

Motion Carried
Application Continued Until
the Meeting of December 1, 2015

2.	Applicant:	Sharon DeVoe
	Location:	150 Fielding Drive
	Mon. Co. Tax No.:	074.11-6-28
	Zoning District:	R1-E (Single-Family Residential)
	Request:	An area variance for a proposed 6.0-foot-high, closed-construction fence (12± 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. Sec. 211-46L

On a motion by Mr. Shea and seconded by Mr. Hartwig, it was resolved to close the public hearing on this application and reserve decision until the meeting of November 17, 2015.

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

Motion Carried
Application Closed and Decision
Reserved Until November 17, 2015

3.	Applicant:	Gerald Pozzuolo
	Location:	1230 Edgemere Drive
	Mon. Co. Tax No.:	035.09-1-42
	Zoning District:	R1-E (Single-Family Residential)
	Request:	An area variance for a proposed detached garage (16.0 feet x 25.0 feet; 400 square feet) to have a (east) side setback of 0.5 feet, instead of the 3.5 feet granted by the Board of Zoning Appeals on July 5, 2011. Sec. 211-11 E (1), Table I

Mr. Forsythe 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 1230 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.

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

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

Motion Carried

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

Mr. Chairman, with regard to the application of Gerald Pozzuolo, 1230 Edgemere Drive, Mr. Pozzuolo appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed detached garage (16.0 feet x 25.0 feet; 400 square feet) to

have a (east) side setback of 0.5 feet, instead of the 3.5 feet granted by the Board of Zoning Appeals on July 5, 2011.

WHEREAS, the findings of facts are as follows. This parcel is located at 1230 Edgemere Drive and is located in an R1-E Single-Family Residential neighborhood. The applicant, Gerald Pozzuolo, appeared before this Board this evening and stated that he has lived at this residence for approximately four years. Mr. Pozzuolo is requesting to build a detached garage, 400 square feet, on his property. He was approved on July 5, 2011 to build a shed 3.5 feet from the property line, but he is requesting to have it a half a foot to try and gain as much space as he can due to the small lot size. Mr. Pozzuolo has talked to one of his neighbors, who appeared before us tonight, John Stubbe at 1226 Edgemere Drive, and from discussions with Mr. Stubbe, his only concern would be that, if the overhang of the garage was beyond the six inches, that would then be a concern. Mr. Pozzuolo has indicated that, depending on the size of the overhang, if it is going to be greater than six inches, they will move his garage accordingly to not impact Mr. Stubbe's property. Mr. Riley, at 1234 Edgemere Drive, has consulted or has expressed his approval to Mr. Meilutis that he has no problem with the new structure. The structure is going to be aesthetically similar to that of the house, with cedar shakes. It is going to be concrete construction; the utilities are going to be electric only. Mr. Pozzuolo has also indicated that, because of potential drainage issues, he will install a gutter system with a downspout so it will not go onto his neighbor's property. He is using the garage—it is going to be a one-and-a-half-car garage—for his wife's vehicle or a vehicle and then storage.

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 he conforms to what he had previously stated tonight with regard to the overhang, that it is not going to be on the property of Mr. Stubbe.
2. That the downspout and the water drainage issues will also not go onto 1226 Edgemere Drive.
3. And that the applicant obtains all the necessary building permits and conforms to the codes of the Town of Greece.

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

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

Motion Carried
Application Approved
With Conditions

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4. Applicant: Thomas Kunz

Location: 2780 Edgemere Drive

Mon. Co. Tax No.: 026.15-1-3

Zoning District: R1-E (Single-Family Residential)

Request:

a) An area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have an (east) side setback of 4.0 feet, instead of the 6.0 minimum required. Sec. 211-11 E (1), Table I

b) An area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have a rear setback of 28.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 33.2 feet minimum required. Sec. 211-11 E (1), Table I

c) An area variance for existing and proposed accessory structures, totaling 863.4 square feet, where 800 square feet is the maximum gross floor area permitted for lots less than 16,000 square feet in lot area. Sec. 211-11 E (1), Table I

d) An area variance for an existing and proposed (west) side setback of 1.1 to 2.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (1), Table I, Sec. 211-22 B (1) (a) [2]

e) An area variance for an existing deck (404± square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; and for said deck to have a proposed front setback of 86.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 80.0 feet maximum established by the neighborhood average; and for said deck to have a proposed (west) side setback of 2.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (3), Sec.211-11 D (2), Table I, Sec. 211-11 E (1), Table I

f) An area variance for a proposed second-story deck (6.0 feet x 12.0 feet; 72.0 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only. Sec. 211-11 E (3)

On a motion by Ms. Nigro and seconded by Mr. Hartwig, it was resolved to continue the public hearing on this application until the meeting of November 17, 2015 to order to give the applicant time to review their options.

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

Motion Carried
Application Continued Until
the Meeting of November 17, 2015

5.	Applicant:	846 LPR, LLC, 834-850 LPR, LLC, 1700 English Road LLC
	Location:	834–854 Long Pond Road & 1700 English Road
	Mon. Co. Tax No.:	059.01-3-56.11, 059.01-3-56.12, 059.01-3-56.13
	Zoning District:	BR (Restricted Business)
	Request:	An area variance for an existing business center to have 342 parking spaces, instead of the 365 spaces required. Sec. 211-45 S (1), Sec. 211-45 Q, Sec. 211-45 Z

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 834-854 Long Pond Road & 1700 English Road, 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 an Unlisted action under SEQRA.

2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all parties in interest were afforded an opportunity to be heard.

3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.

4. The Board of Zoning Appeals has carefully considered an Environmental Assessment Form ("EAF") and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").

5. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered additional information and comments that resulted from telephone conversations or meetings with or written correspondence from the Applicant and the Applicant's representatives.

6. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development and the Town's own staff.

7. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.

8. The Environmental Analysis examined the relevant issues associated with the Proposal.

9. The Board of Zoning Appeals has completed Parts 2 and 3 of the EAF, and has carefully considered the information contained therein.

10. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.

11. The Board of Zoning Appeals has carefully considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.

12. The Board of Zoning Appeals has carefully considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.

13. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.

14. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.

15. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the Applicant's voluntary incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

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

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

Motion Carried

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

Mr. Chairman, with regard to the application of 846 LPR, LLC, 834-850 LPR, LLC, 1700 English Road LLC, of 834-854 Long Pond Road & 1700 English Road, their representative, Betsy Brugg Esq., appeared before the Board this evening, requesting an area variance for an existing business center to have 342 parking spaces, instead of the 365 spaces required.

WHEREAS, this evening, Betsy Brugg appeared before the Board on behalf of 846 LPR, LLC, 834-850 LPR, LLC, 1700 English Road LLC pertaining to property located at 834–854 Long Pond Road & 1700 English Road in a zoning district rated BR, applying for an area variance for an existing business center to have 342 parking spaces, instead of the 365 spaces required.

WHEREAS, on the main motion, this evening, Betsy Brugg mentioned that the need for this variance is driven by the commercial strip center of the property located on Long Pond Road. There are currently eight tenants in this structure, with a vacant space; a ninth tenant is to be admitted. The tenant will be "Flight West," which is a restaurant in nature, a food service that would make six food service tenants in this facility. Due to Town code and formulas to determine the parking requirements for food service restaurants that cause a greater density, this parking situation was not anticipated in the original planning of the Project, thereby creating this differential. The existing tenants all have different, various, peak operating hours so that parking at this facility really does not present a problem to customers or to tenants themselves. As such, I move to approve this application with the following conditions:

1. That signage be directed to alert the public that there is additional parking to the rear of the building or the east portion of the building, and that signage also be directed on a rear door of the Flight West space that opens up to the eastern portion of the building so that customers and public can access the space accordingly.
2. In the event that this becomes a nuisance for the fire department, the ambulance corps or the police department because of multiple occurrences of illegally parked cars or problems maneuvering around the business center, the applicant will go back to the planning board and have them re-assess whether or not additional paving is needed on the east side of that building.

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

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

Motion Carried
Application Approved
With Conditions

6.	Applicant:	ABC, LLC
	Location:	3160 West Ridge Road
	Mon. Co. Tax No.:	074.01-1-7.1
	Zoning District:	BG (General Business)
	Request:	An area variance for a proposed building-mounted sign (4.5 feet x 49.9 feet; 222.3 square feet), instead of the one (1) 50-square-foot building-mounted sign permitted for a business which does not face a street. Sec. 211-52 B (2) (c) [2]

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 3160 West Ridge Road, 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 an Unlisted action under SEQRA.

2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all parties in interest were afforded an opportunity to be heard.

3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.

4. The Board of Zoning Appeals has carefully considered an Environmental Assessment Form ("EAF") and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").

5. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered additional information and comments that resulted from telephone conversations or meetings with or written correspondence from the Applicant and the Applicant's representatives.

6. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development and the Town's own staff.

7. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.

8. The Environmental Analysis examined the relevant issues associated with the Proposal.

9. The Board of Zoning Appeals has completed Parts 2 and 3 of the EAF, and has carefully considered the information contained therein.

10. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.

11. The Board of Zoning Appeals has carefully considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.

12. The Board of Zoning Appeals has carefully considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.

13. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.

14. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.

15. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the Applicant's voluntary incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

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

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

Motion Carried

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

Mr. Chairman, with regard to the application of ABC, LLC, representing "Dollar Tree" of 3160 West Ridge Road, their representative, Nelson Baranes, appeared before the Board this evening requesting an area variance for a proposed building-mounted sign (4.5 feet x

49.9 feet; 222.3 square feet), instead of the one (1) 50-square-foot building-mounted sign permitted for a business which does not face a street.

WHEREAS, on the main motion, Mr. Chairman, with regard to the application of ABC, LLC, 3160 West Ridge Road, Mr. Baranes, representing the sign company for ABC, LLC, appeared before the Zoning Board of Appeals tonight relative to the property at 3160 West Ridge Road requesting an area variance for a proposed building-mounted illuminated "Dollar Tree" sign (4.5 feet x 49.9 feet; 222.3 square feet), instead of the one (1) 50-square-foot building-mounted illuminated sign permitted for a business which does not face a street. In discussion, the Board found that sign area for the other businesses in this plaza is variable, and that the principal benefit of a sign in this location would not be to attract customers into the plaza from West Ridge Road, but to guide customers to the store after they have entered the plaza. Based on this information, the Board and the applicant's representative agreed that 140 square feet would be an adequate size for the sign.

The Board of Zoning Appeals shall consider the benefit to the applicant, weighed against the detriment to the health, safety and welfare of the neighborhood or community, using the following criteria:

1. An undesirable change will not be produced in the character of the neighborhood nor will it be a detriment to nearby properties should this variance be granted.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue.
3. The requested area variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty was self-created, which consideration is relevant to the decision of the Board of Zoning Appeals, but shall not necessarily preclude the granting of the area variance.

I therefore move to approve the variance, with the following conditions:

1. That the size of the sign will not exceed 140 square feet.
2. That all Town permits first be obtained.
3. Signage shall be maintained by the tenant.
4. When the applicant leaves this location, that signage must be taken down in a reasonable amount of time.

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

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

Motion Carried
Application Approved
With Conditions

7. Applicant: Heritage Jewelers

Location: 2547 West Ridge Road

Mon. Co. Tax No.: 074.14-3-12

Zoning District: BR (Restrict Business)

Request: a) An area variance for two (2) proposed temporary promotional banners (5.0 feet x 30.0 feet; 150.0 square feet each), totaling 300.0 square feet in sign area, instead of the one (1) promotional banner not to exceed 20 square feet. Sec. 211-51 E (3), Table V

b) An area variance for two (2) proposed temporary promotional banners (5.0 feet x 30.0 feet; 150.0 square feet each), totaling 300.0 square feet in sign area, to have a duration of forty-five (45) days, instead of the thirty (30) days maximum permitted. Sec. 211-51 E (3), Table V

Mr. Meilutis 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 2547 West Ridge Road, 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 an Unlisted action under SEQRA.

2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all parties in interest were afforded an opportunity to be heard.

3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.

4. The Board of Zoning Appeals has carefully considered an Environmental Assessment Form ("EAF") and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").

5. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered additional information and comments that resulted from telephone conversations or meetings with or written correspondence from the Applicant and the Applicant's representatives.

6. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development and the Town's own staff.

7. The Board of Zoning Appeals also has included in the Environmental Analysis and has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.

8. The Environmental Analysis examined the relevant issues associated with the Proposal.

9. The Board of Zoning Appeals has completed Parts 2 and 3 of the EAF, and has carefully considered the information contained therein.

10. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.

11. The Board of Zoning Appeals has carefully considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.

12. The Board of Zoning Appeals has carefully considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.

13. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.

14. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.

15. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the Applicant's voluntary incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

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

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

Motion Carried

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

With regard to the application of Heritage Jewelers, of 2547 West Ridge Road, their representative appeared before the Board this evening, requesting an area variance for two (2) proposed temporary promotional banners (5.0 feet x 30.0 feet; 150.0 square feet each), totaling 300.0 square feet in sign area, instead of the one (1) promotional banner not to exceed 20 square feet; and an area variance for two (2) proposed temporary promotional banners (5.0 feet x 30.0 feet; 150.0 square feet each), totaling 300.0 square feet in sign area, to have a duration of forty-five (45) days, instead of the thirty (30) days maximum permitted.

WHEREAS, on the main motion, the applicant came before the Board this evening, requesting some signage that identifies a new vendor that they are now the dealership for; it is called Alex and Ani. The applicant said that there are two other company stores and a few other smaller retail stores, but they are being recognized as one of the larger Alex and Ani locations. Alex and Ani is a popular known jewelry line that Heritage wants to carry. They are asking to be able to put this sign up for 45 days, where 30 days is the maximum permitted by our code. In the original application, it was for two (2) proposed temporary promotional banners (5.0 feet x 30.0 feet; 150.0 square feet each), totaling 300.0 square feet, and an area variance for two (2) proposed temporary banners where only one is permitted. The two (2) promotional banners of 150 square feet each, totaling 300.0 square feet in sign area, are proposed to have a duration of forty-five (45) days, instead of the thirty (30) days. The applicant said that it would be their desire to put these up around November 15th and to remove them by December 30th, which would be the 45-day window. Having reviewed what the applicant had submitted originally to the Board for review, they did lay out banners of 150 square feet. After considerable discussion with the applicant, he agreed that the signs would only contain the words "Alex and Ani" in black on a white background, and that each banner would not exceed 40 square feet in total; that is, 40 square feet from corner to corner, up and down, left to right, a total of 40 square feet each. The applicant appeared before the Board this evening, and having just summarized the findings of fact, I want to address the five points that we are forced to consider:

1. <u>An undesirable change will not be produced in the character of the neighborhood nor will it be a detriment to nearby properties should this variance be granted.</u> Banners have been used as promotional tools. We are in the holiday season, basically Thanksgiving to Christmas, and this is an introduction of a new line for the applicant, which is extremely important to communicate to the public at large.

2. <u>The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than by a variance.</u> The applicant persuaded the Board that each banner was needed at a minimum relief of 40 square feet to get the Alex and Ani name up on the sides of the building.

3. <u>The requested area variance is not substantial</u> in that we have granted variances in size before. The duration is somewhat unusual, but having recognized that the applicant is introducing and launching a new line, it seems totally appropriate.

4. <u>The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.</u> There are banners of that range in all kinds of copy along our West Ridge Road corridor from time to time; these would simply be other promotional banners.

5. <u>The alleged difficulty was self-created</u> in that they are carrying their own line of Alex and Ani, <u>which consideration is relevant to the decision of the Board of Zoning Appeals, but shall not necessarily preclude the granting of the area variance.</u>

Having just summarized the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, I am going to move to approve this application, with the following conditions:

1. That the total size of each banner will not exceed 40 square feet.
2. That the banners will be installed no sooner than November 15th and will be removed no later than December 30th.

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

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

Motion Carried
Application Approved
With Conditions

MODIFICATION TO NEIGHBORHOOD NOTIFICATION:

1. Applicant: Avid Indoor Golf & Fitness and Ridgemont Properties, LLC

Location: 3655 West Ridge Road & 3717 West Ridge Road

Mon. Co. Tax No.: 073.04-2-17.11

Zoning District: R1-E (Single-Family Residential) & R1-18 (Single-Family Residential)

Request: a) An area variance for a proposed building-mounted sign ("Indoor Golf & Fitness"; 3.0 feet x 8.9 feet; 26.7 square feet), where none (0) are permitted. Sec.211-52 A

b) An area variance for a proposed freestanding sign ("Avid Indoor Golf & Fitness"; 4.0 feet x 6.7 feet; 26.8 square feet), where none (0) are permitted. Sec. 211-52 A

c) An area variance for an existing freestanding sign ("Ridgemont Country Club"; 6.0 feet x 6.0 feet; 36.0 square feet), where none (0) are permitted; and for said sign to be located 6.0 feet from the south right-of-way of West Ridge Road, instead of the 15.0 feet minimum required; and for said sign to be more than four (4.0) feet above the nearest street grade. Sec. 211-52 A, Sec. 211-52 A (1)

d) An area variance for an existing freestanding sign ("Golf Instruction"; 6.0 feet x 6.5 feet; 39 square feet), where none (0) are permitted. Sec. 211-52 A

e) An area variance for an existing freestanding sign ("Ridgemont Country Club"; 8.0 feet x 8.0 feet; 64 square feet), where none (0) are permitted. Sec. 211-52 A

The above-referenced applicant has requested a modification of the neighborhood notification requirements, to reduce the number of property owners to be notified. The basis for this request is the large size of the entire parcel, of which this site is but one part, and the many properties which would be included in the notification but which are not near the subject of the area variance.

On a motion by Mr. Hartwig and seconded by Mr. Shea, it was resolved to amend the Neighborhood Notification for the area variances submitted by Avid Indoor Golf & Fitness and Ridgemont Properties, LLC, relying on the Town staff's judgment for fulfillment of the zoning ordinance intent for adequate neighborhood notification, which should be just the parcels fronting West Ridge Road and Elmgrove Road, both sides of the street in the immediate area, which are the parcels in the immediate vicinity that potentially would be most affected by the proposed area variances.

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

Motion Carried
Request Granted

ADJOURNMENT: 10:00 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: November 17, 2015